

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

<i>In re</i> Application of	)	
	)	Group Art Unit: 3673
Julia S. FAIRCLOTH et al.	)	
	)	Examiner: Conley, Fredrick C.
Serial Number 10/661,698	)	
	)	Attorney Reference: PIL001
Filed: September 12, 2003	)	
	)	
For: PLAY PILLOW WITH HIDING SPACE	)	

**APPEAL BRIEF**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Appellants hereby appeal to the Board of Patent Appeals and Interferences from the decision of the Primary Examiner finally rejecting claims 1-2 and 4-11, 14-15, 18, 21, 23-31, 34 of claims 1-2 and 4-36 pending in the above-captioned patent application.

**(1) *Real party in interest.***

The real parties in interest are inventors, Julia S. Faircloth and Nellie T. Faircloth, residing at 11025 NE Hurley Lane, Newberg, OR 97132.

**(2) *Related appeals and interferences.***

Appellants are unaware of any appeals or interferences related to the subject appeal.

**(3) *Status of claims.***

Claims 1-2 and 4-36 are pending in the application.

Claims 1, 23, 25 and 34-36 are independent claims.

Claim 3 was cancelled.

Claims 1-2 and 4-11, 14-15, 18, 21, 23-31, 34 are finally rejected.

Claims 12-13, 16-17, 19-20, 22, and 32-33 are objected to as being dependent upon a rejected base claim but would be allowable if rewritten in independent form.

Claims 35-36 are allowed.

**(4) *Status of amendments.***

In response to the First Office Action mailed March 23, 2004 and the Examiner's Interview of May 4, 2004, a First Amendment was filed on June 21, 2004 incorporating the subject matter agreed as allowable in the First Office Action and in the Examiner's Interview.

A new non-final, Second Office Action was mailed November 17, 2004. In response, Applicants filed a Second Amendment mailed February 14, 2005.

A Third and Final Office Action was mailed June 16, 2005. In response, Appellants filed a first Appeal Brief mailed September 15, 2005.

The Third and Final Office Action was withdrawn and a new non-final, Fourth Office Action was mailed Dec. 9, 2005. In response, Applicants timely filed a 37 C.F.R. 1.131 Affidavit swearing behind the base reference.

A new non-final, Fifth Office Action was mailed June 6, 2006, and in response Applicants filed a Third Amendment mailed September 1, 2006.

A Sixth and Final Office Action was mailed on November 28, 2006. An After Final Interview was held on January 25, 2007 but did not result in an agreement. The present second Appeal Brief is hereby filed in response to the Sixth and Final Office of November 28, 2006.

The First, Second and Third Amendments were each entered in full and no further amendments have been made.

No Amendments after final have been filed. Accordingly, the present claims are in the attached Claims Appendix.

(5) *Summary of Claimed Subject Matter.*

The present invention is drawn to a theme pillow 100 for playing peek-a-boo hide and seek comprising a door 104 over hidden cavity 120 where hidden cavity 120 has a billowing sidewall 122 for snugly holding an item 128. Figures 1A, 1C and 1G; Spec. pg. 3, par. 6, lines 1-10; pg. 14-15, par. 71-72. Door 104 is located on front surface 102 for fully revealing a cavity opening 126 and for concealing hidden cavity 120. Spec. pg. 16-17, lines 1-13. Door 104 is connected to front surface 102 in between cavity opening 126 and an outer perimeter 110 in a position easily comprehended and navigated by very young children. Spec. pg. 4, par. 7, lines 1-8; pg. 23, par. 89, lines 1-3. The door is also positioned to create a sense of mystery that entices a person to open the door revealing the hidden cavity and surprise inside. Spec. pg. 4, par. 89, last 3 lines.

Hidden cavity 120 is particularly structured with an opening 126 of generally fixed dimension similar to cavity floor 124 and with a billowing sidewall 122 for snugly holding an item 128 in hidden cavity 120 even when door 104 is open. Fig. 1C and 3A; Spec. pg. 15, par. 72, lines 7-8. Preferably, a stuffed toy such as a stuffed animal 128 is snugly held, that is, frictionally held, in the cavity by compression and friction of the billowing sidewall 122 and item 128. Spec. pg. 15, par. 72, lines 7-8.

A visually illustrated cohesive theme links all the parts together. Indicia 131 on the pillow surface illustrates a theme in combination with the hidden item stored in the hidden cavity. For example, a stuffed bear 128 snugly held in a pillow having of forest indicia 131 illustrates 'a bear in the woods' theme. Spec. pg. 17, par 76, lines 1-4.

In more elaborate embodiments of Figs. 4B-4C and 5C-5D, multiple doors conceal one cavity, in Fig. 5B the pillow comprises multiple cavities 520a, 520b, and in Fig. 6B a tunnels connects cavities. In allowed claim independent claim 35 a structure 225 (Fig. 2) bridges at least a portion of the cavity, and in allowed independent claim 36 a door is provided on another door, for example, cover door 454 on door 404 (Fig. 4A).

(6) *Grounds Of Rejection To Be Reviewed On Appeal.*

The following grounds of rejection were set forth in the Sixth and Final Office Action mailed November 28, 2006:

- (a) Claims 1, 5-11, 14-15, 18, 23-25, 28-31, 34 were finally rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Number 3,175,230 to Herdal in view of U.S. Patent Number 4,091,481 to Redman.
- (b) Claims 2 and 26 were finally rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Number 3,175,230 to Herdal in view of U.S. Patent Number 4,091,481 to Redman, further in view of U.S. Patent Number 5,778,468 to Saarela et al.
- (c) Claims 4 and 27 were finally rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Number 3,175,230 to Herdal in view of U.S. Patent Number 4,091,481 to Redman further in view of U.S. Patent Number 3,378,948 to Gervaise.
- (d) Claim 21 was finally rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Number 3,175,230 to Herdal in view of U.S. Patent Number 4,091,481 to Redman, further in view of U.S. Patent Number 6,105,188 to Perez-Mesa et al.

Of the pending claims, claims 12-13, 16-17, 19-20, 22, and 32-33 are objected to as being dependent upon a rejected base claim but would be allowed if rewritten in independent form. Claims 35-36 are allowed. Appellants hereby appeal the rejections of pending claims 1-2, 4-11, 14-15, 18, 21-31 and 34.

(7) *Grouping of claims.*

Claims 4, 6, 8-9 and 14-15 fall with claim 1.

Claims 27, 29-31 fall with claim 25.

Arguments as to why the remaining claims do not fall together and are separately patentable are set forth under section (9) below.

(8) *Brief Discussion of Prior Art.*

*Brief Discussion of Herdal, U.S. Patent Number 4,091,481*

Herdal teaches a bolster for storing night wear. The bolster of Herdal comprises "...a relatively rigid frame 11 surrounding a central cavity, in which night wear may be folded and stored." Col. 1, lines 9-11. The bolster of Herdal has a "...stiff or relatively firm framework surrounding the cavity so that the night wear contained therein will not become mussed or crumpled when retrieved." Col. 1, lines 19-22. Frame 11 "...is comprised of sponge rubber or similar compressible material which at the same time retains its form to provide a relatively stiff outline for a central cavity 12." Col. 1, lines 52-54. Frame 11 is covered with a liner 13 which lines the side walls of cavity 12 and extends across the top of frame 11 at liner portion 14. The bottom of cavity 12 has bottom cavity liner 15 that extends outwardly to the periphery of frame 11. Over cavity 12 is a liner 25 and a top ornamental covering 26 together sandwiching pad 27. Cover 26 is opened along a fold line 29. Attached to half of the periphery of cover 26 is a flange 34 extending about halfway downwardly over a front and adjacent side walls of frame 11. The front and side walls in Herdal are located at peripheral cover 19. Loops 35 on flange 34 engage buttons 36 spaced along the front of the bolster. Col. 2, lines 3-10. In Herdal, "...depending ruffles 37 or fringes which enhance the ornamental appearance of the device and which conceal the opening and discontinuation at the sides and front from view." Col. 2, lines 11-14. Herdal mentions that the bolster may be rectangular, round, multi-sided, or any desired shape or configuration. Col. 2, lines 21-25. The Herdal patent is reproduced for reference in Appendix A.

*Brief Discussion of Redman U.S. Patent Number 4,091,481*

Redman teaches a three dimensional tooth shaped pillow having a pocket 20 secured by sewing or other suitable means. Pocket 20 has money indicia and has an upper opening 22 for receiving baby teeth in exchange for coins or other valuables. Col. 1, lines 55-56; col. 2, lines 19-20. The Redman patent is reproduced in Appendix B.

*Brief Discussion of Saarela et al. U.S. Patent Number 5,778,468*

Saarela et al. teach a cloud shaped pillow having a crescent moon shaped pocket 15 for holding a stuffed toy angel 18 and back pocket 3 for holding favorite books and small toys. Col. 1, line 61, 65-68; col. 2, lines 50-51, 56; col. 3, lines 25-29. The Saarela et al. patent is reproduced in Appendix C.

*Brief Discussion of Gervaise. U.S. Patent Number 3,378,948*

Gervaise teaches a cylindrical pillow having decorative patterns 24 and 48 in the form of colored pictures, nursery rhymes or other scenes appealing to a child. Col. 1, lines 63-66. The cylindrical pillow also has bells 20 attached for producing a jingling sound when rolled about a floor. Col. 1, lines 67-72. The Gervaise patent is reproduced in Appendix D.

*Brief Discussion of Perez-Mesa et al. U.S. Patent Number 6,105,188*

Perez-Mesa et al. teach a nap-sac carrying pouch where it appears that base blanket 14 and cover blanket 20 fold into thirds lengthwise (Fig. 5) and then roll-folded into open end 32 of carrying pouch 26 (Fig. 3). The Perez-Mesa et al. patent is not fully understood, but it appears that square pouch sections 28 and 30 (Fig. 1) turn inside out in Figure 4 to hold a pillow 40. Col. 4, lines 35-55. Carrying pouch 26 includes a utility pocket 44. The Perez Mesa et al. patent is reproduced in Appendix E.

**(9) Arguments.**

*Appellants' Response to 35 U.S.C. §103(a) Rejections.*

- (a) The Examiner finally rejected claims 1, 5-11, 14-15, 18, 23-25, 28-31, 34 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Number 3,175,230 to Herdal in view of U.S. Patent Number 4,091,481 to Redman.

The Examiner's arguments appear to allege that a bolster with a door and cavity is enough to make any pillow with a door and cavity obvious. Applying that reasoning to another crowded art, such as coffee cups lids, we might not ever see patentable improvements that are easier to



use, less likely to spill, easier to snap-on, more ergonomic, easier to stack, etc. Applicants invented a novel theme pillow configuration that creates a sense of mystery, and is easy for very young children to comprehend and to use in play which helps develop their imagination and motor skills in quiet time play. In addressing the arguments reference numerals were added as a suggestive guide to sample embodiments.

Claims 1, 4, 6, 8-9, 14-15: Claim 1 sets forth a theme pillow assembly 100 for playing peek-a-

- boo hide and seek with at least one item 128. Figs. 1A-1G. Theme pillow assembly 100 comprises a cushioning member having a front surface 102, a back surface 136 and cushioning medium 152 therebetween. Theme pillow assembly 100 also comprises a cavity 120 recessed into the cushioning member. Cavity 120 has a cavity opening 126 of a predetermined dimension, a cavity sidewall perimeter surface 122, and a cavity floor surface 124 of a similar predetermined dimension. Cavity sidewall perimeter surface 122 is made of a length of material similar to the circumference of the cavity opening yet having a longer width length than the depth of the pillow so as to impart billowing inward toward cavity 120, the billowing at least partially obscuring cavity floor surface 124 from view. Note, the diagonal lines in cavity 120 (Fig. 1C) are the cavity sidewall layer folding in upon itself as the cavity sidewall layer rounds the corners. The billowing sidewall snugly holds item 128, or as stated in the specification, "[T]he billowing sidewall perimeter surface 122 serves to frictional yet releaseably hold an item in cavity 120." See Fig. 1C; Spec. pg. 15, par. 72, lines 7-8. Figure 3A shows a frog item 328 larger than the smallest diameter of cavity 320 occurring at the maximum billowing which in practice compresses the stuffed animal and the billowing sidewall forming a frictionally snug fit.

Theme pillow assembly 100 further comprises a door 104 connected to front surface 102. Door 104 is openable to an open position for revealing all of cavity opening 126 (Fig. 1C) and closeable to a closed position concealing at least a portion of cavity 120 (Fig. 1A). Cavity opening 126 generally maintains its predetermined dimension whether or not door 104 is opened or closed.

- Theme pillow assembly 100 further comprises indicia 131 on the cushioning member and/or door 104 which together with item 128 visually illustrates a theme. For example, Fig. 1C shows forest indicia 131 together with bear 128 visually illustrating 'a bear in the woods' theme.

- Spec. pg. 17, par 76. See also Fig. 3A where door 304 has a lily pad indicia which together with frog 328 illustrates a frog theme. Spec. pg. 25, par. 91, lines 5-6 and 13-26. The cohesive theme visually links the stored item to the pillow.

Turning now to the final rejection, the Examiner alleges that the size and location of the door is a matter of design, or as eluded to in the Interview After Final on January 25, 2007, a matter of aesthetics. On the contrary, Applicants argue that the present pillow door structure makes the present pillow easy for very young children comprehend and use in play and thus help develop early motor skills. Spec. pg. 4, par. 7, lines 1-8; pg. 23, par. 89, lines 1-3.

Creating something simple, comprehensible and easy to use is just as much of an invention as making something complicated. In use, the present door simply opens then lays back down over the cavity on the front surface of the pillow. Placement of the present door 104 centrally located on pillow 100 provides visual balance and provides balance on a child's lap, that is, the pillow is not likely to tumble off when door 104 is opened and closed in peek-a-boo play. Moreover, the present door looks more like a regular door that very young children have some familiarity and that may be the reason the present door is easily comprehended by children and easy for them to use. The present pillow has utility for storing an item and can "improve a child's motor skills and stimulate imagination while providing quiet time entertainment with a soft, non-breakable article." Spec. pg. 23, par. 89, lines 1-3.

In Herdal, a cavity opening is generally outlined at the intersection of liner portion 13 and liner portion 14 at the inner top edge of frame 11. A door is shown as one-half of cover 26.

- When door-half of cover 26 is opened, a cavity opening the size of of only one-half of the cavity floor dimension is revealed, the other half of the cavity opening remains hidden under the fixed half of cover 26. Note, in the Examiner's arguments, the Examiner states "...a first cavity sidewall perimeter surface [is] defined by an inner lining 13 *extending across the top and bottom of cavity liners (14,15)...*" (italic added for emphasis). Office Action, pg. 2, par. 3, line 2. Extending the first cavity sidewall perimeter surface across the top of frame 11 to include liner portion 14 puts the circumference of the cavity opening at the outer periphery of the bolster. A cavity opening extending to the bolster periphery omits a front surface, as set forth in claim 1, line 7 and as defined in the specification. See front surface 102 in Spec. pg. 15, par. 71, line 6; pg. 16, par. 74, line 5; pg.18, par. 78, lines1-3. Note, the Examiner's rejection uses liner 13 for



two different structures. First, liner 13 is used for the front surface (Office Action, pg. 2, par. 3, line 2), and second, liner 13 is used for the first cavity sidewall perimeter surface which the Examiner says extends across the top of frame 11 (Office Action, pg. 2, par. 4, lines 3-4).

The structure of Herdal's cover 26 is complicated and more complicated to use because upon closing cover 26, flange 34 and ruffles 37 can get trapped under cover 26, or flange 34 with ruffle 37 and cover 26 may need to be stretched over the corners of rectangular frame 11, and loops 35 and buttons 36 on the side of the bolster may be harder to reach and navigate. Each of these problem areas make the bolster difficult for very young children to use. As mentioned above, Herdal teaches concealing the cavity opening and flange 34 of cover 26 with ruffles or fringes 37. Col. 2, lines 5-6 and 11-14. Herdal disguises cover 26, such that, it would seemingly go against Herdal's teachings to make a cover that looks like a door frontally located on a bolster. Applicants door looks like a door to purposely create a sense of mystery enticing a person to look what lies beyond. Spec. pg. 24, par. 89, last 3 lines.

Further, Applicants do not believed that it would be an obvious matter of design for Herdal's cover 26 to fully open because Herdal is concerned with maintaining "...a stiff or relatively firm framework surrounding the cavity so that night wear contained therein will not become mussed or crumpled." Col. 1, lines 19-22. Cover 26 is sewn to peripheral cover 19 on three sides effectively forming a box-envelope holding one-half of rectangular frame 11. If cover 26 opened fully revealing all of the cavity opening, then Herdal would lose sewing on two of the three sides of the box-envelope seemingly making the bolster less rigid which goes against Herdal's teachings.

Redman is referenced as showing a frontally located 'door'. Note, the Office Action, page 3, par. 3, line 9, where the Examiner states, "...Redman discloses a pillow having a door with indicia..." We do not agree that Redman shows a door of any sort. Redman teaches a pocket 20. Somehow by applying this frontally located pocket to Herdal, the Examiner finds the present door and obvious matter of design. This line of reasoning appears to be recreating Applicants' inventive pillow by impermissible hindsight. The pocket of Redman is not analogous to an openable and closeable door over a cavity. A pocket is not openable along a hinge line. Even if a pocket did open like a door, the storage space therebehind would disappear. Redman lacks a cavity recessed into a pillow. In the present invention, cavity 120 does not disappear upon

opening door 104, and thus a stuffed animal 128 stored in cavity 120 does not disappear or fall out but remains snugly held in cavity 120 whether or not door 104 is open.

Claim 1 further sets forth at least one item 128 snugly held in cavity 120 by cavity sidewall perimeter surface 122 billowing inward. Applicants explain that the billowing sidewall perimeter surface 122 frictionally yet releaseably holds an item in cavity 120. Spec. pg. 15, par. 72. Applicants' invented and carefully set forth a relationship between the billowing sidewall and the item snugly held in the cavity. Nowhere in the prior art do we find a pillow with a door and a cavity with a sidewall that billows inward for snugly holding an item as claimed. The present billowing sidewall snugly holds a peek-a-boo item in place so when a child is at play, opening and closing the door, the item inside will stay frictionally retained in the cavity and will not accidentally fall out. Similar to a puzzle, the pieces of the present peek-a-boo pillow fit together in snug relation. Also like puzzle, the pieces of the present invention have indicia providing a cohesive theme when assembled.

Herdal does not teach snugly holding an item in a bolster. Moreover, Herdal teaches away from snugly holding an item because Herdal teaches "...stiff or relatively firm framework surrounding the cavity so that the night wear contained therein will not become mussed or crumpled when retrieved." See col. 1, lines 19-22. Snugly holding night wear would likely muss or crumple the night wear.

Claim 1 further sets forth that cavity sidewall perimeter surface 122 billows inward so as to at least partially obscure the cavity floor surface 124 even when the cavity is empty. In Herdal, liner 13, 14 merely follows the contour of rectangular frame 11. In sewing, liners are used for finishing inner surfaces and imparting stiffness to a garment, the stiffness helping maintain the garment's shape. A vest liner, for example, follows the contours of the vest for finishing and for imparting stiffness. In Herdal, liner 13, 14 appear to merely finish the interior surface by following the contours of frame 11. Thus, Herdal does not teach a billowing cavity sidewall and it does teach a billowing sidewall that obscures bottom cavity liner 15 from view. The Examiner argues that the cavity sidewall surface includes liner portion 14 across the top of frame 11 thus liner portion 14 obscures floor liner portion 15 underneath frame 11. Office Action, pg. 3, par. 3, lines 2-4. While this interpretation of Herdal may provide for obscuring a portion of the cavity floor, it omits a front surface as claimed and as defined in the specification.

In the Interview After Final of January 25, 2007, the Examiner indicated that billowing was a matter of more or less filling. The present inventors use a cavity sidewall fabric material that is about the length of the cavity opening circumference yet significantly longer in width than the depth of the pillow so that when back filled with cushioning medium the sidewall purposely billows inward into the cavity. In manufacturing, an item such as a stuffed animal is selected, then the size of the pillow and the amount of billowing is determined to snugly hold that item, a length of cavity sidewall material is then selected with a width to form the desired billowing, and once the pieces of material are sewn in place, and the pillow is filled with cushioning medium so as to fill-in the billowing sidewall.

In Herdal, rectangular frame 11 is described as having "sufficient rigidity to retain its shape". Herdal, claim 1, line 5. More specifically, the bolster of Herdal comprises "...a rectangular frame 11 which is comprised of sponge rubber or similar compressible material which at the same time retains its form to provide a relatively stiff outline for a central cavity 12." See col. 1, lines 49-54. Herdal mentions relatively rigid, stiff or firm five times. Herdal's rigid frame seemingly serves to maximize cavity space for storing night wear, and thus Herdal would not be interested in billowing because that would decrease the cavity space needed to store night wear in a non-mussed and non-crumpled condition. Applicants purposely decrease the size of the cavity bringing in the cavity sidewall by billowing to snugly and frictionally hold an item, the billowing further providing a space underneath the billowing sidewall to tuck stuffed animal arms and legs. Applicants' pillow is purposely soft, cushiony and billowy due to the large amount of cushioning medium and selection of quilted fabrics.

Claim 1 further sets forth a combination of elements visually illustrating a theme. That is, the item stored in the cavity and at least one of the cushioning member and the door together illustrate a theme. The indicia is not merely aesthetic because by sharing elements of one theme a person can readily identify which items go with which pillows, similar to puzzle pieces. For example, a frog would go with a lily-pad theme, a stuffed bear would go with a bear in a forest theme, and barn animals would go with a barn theme pillow. Applicants further select indicia fabrics for the front and backsides of the door and on the cavity sidewall and floor which keeps the theme going to the interior of the pillow when the door is opened. Spec. pg. 17, par. 76; pg.

25, par. 91; pg. 26, par. 92; and pg. 27, par. 94.. See the present Appendix F showing examples of Applicants' pillows.

Herdal does not teach or suggest an illustrated theme as claimed, but merely mention "ornamental in appearance" (col. 1, lines 13), and separately mentions that the bolster may have other shapes such as round, multi-sided or other desired shape or configuration. Col. 2, lines 24-25.

Redman shows a tooth shaped pillow and having a pocket with money indicia. However, Redman's pillow with pocket is non-analogous to a pillow with a cavity and a door. As discussed above, a pocket space relies on a pocket layer for defining the space, yet a cavity recessed into a pillow is independent of a door structure over the cavity. Even if Redman's tooth theme could be applied to Herdal, the combination would puts us further from the concept of snugly holding an item in the pillow cavity due to the size disparity of Herdal's pillow cavity and the small size of a baby tooth or coin money. There is nothing to suggest snugly holding something so small as teeth or coins in Herdal. Moreover, modifying Herdal in view of Redman would seemingly yield a bolster with a pocket.

The Examiner further argues that it would have been obvious to "employ indicia on the pillow, first door, or first item and alter the outer perimeter as taught by Redman in order to personalize and provide a novelty pillow (col. 1, lines 5-8)." Office Action, page 3, last 3 lines. However, the reference to Redman's "col. 1, lines 5-8" mentions nothing about 'personalizing' or about providing a novelty pillow and these selected lines mention nothing about indicia. Redman fails to mention 'personalizing' anywhere. It is unknown where the Examiner got that motivation. Still further, Redman does not teach indicia on the tooth portion of the pillow and does not teach indicia on a door since Redman does not teach a door. The Examiner mentions that providing a team logo on a surface is well known. Office Action, pg. 3, par. 3, line 8. However, providing a team logo on a surface fails to link the team logo to an item stored in a pillow cavity absent Applicants own teachings.

For all of the above reasons, the combination of Herdal in view of Redman does not teach or suggest the present theme pillow assembly having a door over a cavity, a cavity sidewall perimeter surface that billows to snugly hold an item, or a theme visually linking the pillow to

the stored item as claimed. Thus, Applicants believe the inventive theme pillow assembly is patentably distinct over Herdal in view of Redman.

Claim 5: Claim 5 depends from claim 1 and further sets forth that the door has a larger circumference than the cavity opening so as to overlay the front surface.

In the Examiner's arguments, the Examiner states "...a first cavity sidewall perimeter surface defined by an inner lining 13 *extending across the top and bottom of cavity liners (14,15)...*" (italic added for emphasis). Office Action, pg. 2, par. 4, lines 3-4. Extending the cavity sidewall perimeter surface across the top of frame 11 to include liner portion 14 means the circumference of the cavity opening is at the outer periphery of the bolster. This solves the problem of the cavity sidewall obscuring the cavity floor but means there is no front surface as set forth in claims 1 and 5. In the rejection, the Examiner uses liner 13 for the front surface (Office Action, pg. 2, par. 3, line 2) but then uses liner 13 again, in an inconsistent manner, for the first cavity sidewall perimeter surface. (Office Action, pg. 2, par. 4, lines 3-4). Further, claim 5 requires that the door's circumference is larger than the cavity opening circumference. The circumference of the door portion of cover 26 is not larger than the cavity opening circumference in Herdal.

Claim 7: Claim 7 depends from claim 1 and further requires the cushioning member shell comprising quilted fabric material. In the Office Action, pg. 5, lines 1-3, the Examiner argues Herdal teaches a shell comprising quilted fabric material. Herdal teaches liner 13 may be "any suitable material, such as cloth, plastic, or other desired material." Col. 1, lines 54-56. Herdal does not appear to discuss materials for cover 25 and cover 26. Herdal does not specifically mention quilted fabric anywhere. It would not appear to be obvious to select quilted fabric because Herdal's bolster already has pads 22 and 27, and because liners in sewing are typically silk or polyester, in a vest for example. Quilted fabric material generally comprises two layers of fabric sandwiching a fluffy cotton or polyester batting layer and has sewing lines fixing the three layers together often in a decorative pattern. Spec. pg. 20, lines 8-12 Applicants specially select quilted fabric material because quilted fabrics make the pillow texturally interesting and increase the softness of the pillow.



Claim 10: Claim 10 depends from claim 1 and further sets forth a pillow with a cavity and two doors, such as in Figures 4A-D and Figure 5B. Figures 4A-D shows a space ship theme pillow assembly 400 for playing peek-a-boo hide and seek comprising a cushioning member having a front surface 414 and a back surface 436 connected along an outer perimeter 410. The pillow comprising a cavity 420 with a billowing cavity sidewall surface 422 for snugly holding a space character, for example, Buzzlightyear™ from the movie "Toy Story"; the pillow material having a outer space, planetary or star pattern. Spec. pg. 26-27, par. 92-93. The space ship theme pillow assembly includes a first door 404 fully revealing all of cavity opening 426 and a second portal door 454 connected to the cushioning member via first door 404. The second portal door 454 serving to further illustrate the pillow theme.

Alternatively, claim 10 is shown in Figure 5B where a barn theme pillow assembly 500 is provided for playing peek-a-boo hide and seek with at least one farm animal. Pillow 500 comprises a cushioning member including a front surface connected to a back surface 536 along an outer perimeter surface 560. Pillow 500 further comprising a first cavity 520a recessed from the front surface to floor surface 524a (Fig. 5G) which is of similar dimension to the cavity opening. Pillow 500 further includes a first door 504a, a second door 504b and third door 504c, where the first door 504a is openable to reveal all of the cavity opening at least when said second and third doors are already open, each door being independently operable. The multiple doors serving to further illustrate the pillow theme. Similar to previous embodiments, the sidewall perimeter surface of cavity 520a billows inwardly for snugly, and thus frictionally, holding at least one item. The at least one item is one or more farm animals and/or farmer dolls. First and second doors 504a and 504b have barn door indicia on front and back surfaces and third door 504c having ramp indicia as illustrated in Figures 5A and 5F which together with the barn animals and farmers visually illustrate a barn theme. Spec. pgs. 27-29, par. 94-97.

Herdal teaches one door. Redman teaches a pillow with a single pocket. The Examiner now appears to be alleging that if the pocket of Redman is attached to the bolster of Herdal there would somehow be two doors. Office Action, pg 5, par. 4. Redman teaches a pocket not a door. Therefore adding Redman to Herdal does not cure the deficiencies of Herdal, neither reference fairly suggesting two doors.



Claim 11: Claim 11 depends from claim 10 and further requires that the first and second doors conceal a cavity. The present Figure 4A shows a first door 404 and a second door 454 together concealing a cavity 420. Figure 5B also showing a first door 504a and a second door 504b together concealing a cavity 520a.

Herdal teaches at most one door. Redman teaches a pillow with a pocket. The Examiner appears to be alleging that if the pocket of Redman were attached to the bolster of Herdal there would somehow be two doors. Office Action, pg. 5, par. 4-5. Redman teaches a pocket not a door, therefore, adding Redman to Herdal does not cure the deficiencies of Herdal. Neither reference fairly suggesting two doors, and more specifically, neither reference suggesting two doors covering one cavity.

Claim 18: Claim 18 depends from allowable claim 16. Claim 18 apparently was rejected in error. Applicants realize there is a great deal of claims in the present application but this is largely a result of the First Office Action mailed March 23, 2004, initially allowing the subject matter of claim 3 drawn to the cavity sidewall billowing to snugly hold an item. Applicants look forward to reinstatement of this allowable subject matter.

Claim 23: Independent claim 23 sets forth a cushion article having a cavity with a sidewall perimeter surface billowing inward for snugly holding an item, and sets forth making the cavity sidewall perimeter surface longer in width than a depth of bolster, and sets forth a door connected to a first surface *in between* the cavity opening and an outer perimeter, and the door overlaying the cavity, and the door having a circumference larger than a circumference of the cavity opening.

As applied to Figures 1A-1G, claim 23 sets forth a cushion article 100 for removeably receiving an item 128 comprising a first surface and a second surface 136 connected along an outer perimeter 110, and a cushioning medium 152 located between the first and second surfaces. Spec. pg. 14-15, par. 71-72. The first surface including a front surface 102, a first cavity sidewall perimeter surface 122 and a first cavity floor surface 124. Spec. pg. 18, par. 78, lines 1-4. First cavity 120 encircled by cushioning medium 152 and the first surface. First cavity sidewall perimeter surface 122 billows toward the void of cavity 120 when the void is empty and

billows inward for snugly holding yet removeably receiving an item 128 placed in cavity 120. The first cavity sidewall perimeter surface 122 is longer in width than a depth of the cushion article at outer perimeter 110. Cushion article 100 further comprising a first door 104 connected to first surface 102 at a location *in between* outer perimeter 110 and cavity opening 126. See hinge line 106 in Fig. 1C. Door 104 overlays first cavity 120 in a closed position and has a circumference greater than a circumference of first cavity opening 126 yet smaller than a circumference of outer perimeter 110. By placing the connection point *in between* the cavity opening and outer perimeter and then further setting forth that first door 104 has a larger circumference than cavity opening 126 locates door 104 on front surface 102 in an easily recognizable and balanced position.

Now turning to the references, Herdal does not teach a door connected *in between* a cavity opening and an outer perimeter. And, Herdal does not teach a door having a larger circumference than the cavity opening. Further, Herdal does not teach a billowing cavity sidewall snugly holding an item in the bolster. Herdal shows liner portion 13 being shorter than a depth of the bolster at an outer perimeter. The outer perimeter of Herdal's bolster extending from slightly below leader line 20 in Figure 2 to about leader line 31, that is, to the seam extremities of the bolster.

Redman is referenced as showing a frontally located door. Again, Applicants do not agree that Redman shows a door of any sort. But, somehow by applying the frontally located pocket structure of Redman to Herdal, the Examiner finds the location of the present door and obvious matter of design. This type of reasoning is recreating Applicants' inventive cushion article by impermissible hindsight. A pocket is not openable along a hinge line and thus non-analogous to an openable and closeable door over a cavity. If the pocket of Redman opened like a door, then the storage space behind would disappear leaving no cavity recessed into pillow. A pocket space is dependent on the pocket layer, but a cavity recessed into a pillow is not dependent on a door. Further, with no cavity in Redman there is nothing to suggest connecting a door in between a cavity opening and an outer perimeter of a cushion article.

In the after final interview it was mentioned by the Examiner that the size and location of the present door is a matter of aesthetics. Creating something simple, comprehensible and easy to use is just as much of an invention as making something complicated. In use, the present

door simply opens then lies back down over the cavity on the front surface of the cushion article making the present door easy for very young children to use. In Herdal, the structure of cover 26 is complicated and more complicated for very small children to use because upon closing, flange 34 and ruffle 37 can get trapped under cover 26, or the corners of flange 34, ruffle 37 and cover 26 may need to be stretched over the corners of rectangular frame 11, and loops 35 and buttons 36 may be harder to reach and navigate since they are located on the sides of the bolster. Further, Herdal teaches concealing the cavity opening and flange 34 of cover 26 with ruffles or fringes 37. Col. 2, lines 5-6 and 11-14. Herdal is disguises cover 26. It would seemingly go against Herdal's teaching to provide a door that looks like a door, and is frontally located on a pillow.

Placement of the present door 104 centrally located on pillow 100 provides visual balance and provides balance on a child's lap particularly in a car seat, that is, the pillow is not likely to tumble off when door 104 is opened and closed in peek-a-boo play. A structure like a notebook or a suitcase when opened becomes tipsy on a lap and Herdal's bolster appears to be shaped much like a suitcase; imagine a suitcase handle on the front side wall. Further, the present door looks like a door that very young children have some familiarity which may be the reason the present door is easy for young children to comprehend and use. As set forth in the present specification on page 23, par. 89, the present pillow can improve a child's motor skills and stimulate imagination while providing quiet time entertainment with a soft non-breakable article.

Applicants do not believe that it would be an obvious matter of design for Herdal's cover 26 to be connected to liner portion 14 *in between* an outer perimeter at 41 and a cavity opening at the intersection of liner portions 13 and 14. Connecting door 26 in between an outer perimeter and cavity opening is not obvious because such a connection would seemingly expose a portion of liner portion 14 and would require an extra manufacturing sewing step. Also, Herdal is concerned with maintaining "...a stiff or relatively firm framework surrounding the cavity so that night wear contained therein will not become mussed or crumpled." Col. 1, lines 19-22. Cover 26 is sewn to peripheral cover 19 on three sides effectively forming a box-envelope holding one-half of rectangular frame 11. If cover 26 was connected to liner portion 14 in between the cavity opening and outer perimeter, the bolster would lose sewing on two of the

three sides of the box-envelope seemingly making the bolster of Herdal less rigid and that goes against Herdal's teachings.

In the Examiner's arguments, the Examiner states "...a first cavity sidewall perimeter surface defined by an inner lining 13 *extending across the top and bottom of cavity liners (14,15)...*" (italic added for emphasis). Office Action, pg. 2, par. 4, lines 3-4. Extending the first cavity sidewall perimeter surface across the top of frame 11 to include liner portion 14 means the circumference of the cavity opening is at the outer periphery of the bolster. This means Herdal does not teach a front surface encircling the cavity as claimed. Claim 23, line 15. In the rejection, the Examiner uses liner 13 for the front surface (Office Action, pg. 2, par. 3, line 2) but then uses liner 13 inconsistently for the first cavity sidewall perimeter surface which the Examiner says extends across the top of frame 11 (Office Action, pg. 2, par. 4, lines 3-4).

Claim 23 further sets forth that first door 104 has a circumference greater than a circumference of cavity opening 126 yet smaller than outer perimeter 110. The door has a larger circumference, that is, the distance around the door's perimeter whether square or round, than the circumference of the cavity opening. As shown in Figures 1A-1G, a larger door fully conceals the cavity opening yet remains frontally located on the pillow. In contrast, Herdal's cavity opening at the outer perimeter of liner portion 14, or at the intersection of liner 13 and liner 14, appears larger in circumference than and the cover door which is one-half of cover 26.

Claim 23 further specifies that the cavity sidewall perimeter surface billows inward for snugly holding an item. Nowhere in the prior art do we find a cushion article with a door and a cavity as claimed where the cavity sidewall billows inward for snugly holding an item. Applicants purposely decrease the size of the cavity by the billowing sidewall so as to snugly hold an item. The present billowing sidewall serves to snugly hold an item in place so when a child is at play, opening and closing the door, the item inside stays frictionally retained in the cavity will not accidentally fall out.

Applicants invented and carefully set forth a relationship of the billowing sidewalls and the item snugly held in the cavity. Nowhere in the prior art do we find a cushion article comprising a door and cavity as claimed where the cavity sidewall billows inward for snugly holding an item. Stated another way, "[T]he billowing sidewall perimeter surface 122 serves to frictionally yet releaseably hold an item in cavity 120." Spec. pg. 15, par. 72, lines 7-8. See also

Figure 3A where a stuffed toy frog is larger than the smallest cavity diameter at the maximum billowing, such that, the frog toy is frictionally held under compression in the cavity in a snug manner. Similar to a puzzle, the pieces of the present cushion article fit together in snug frictional relation.

Herdal seemingly teaches away from billowing sidewalls for snugly holding an item because Herdal teaches "...a stiff or relatively firm framework surrounding the cavity so that the night wear contained therein will *not become mussed or crumpled* when retrieved" (italics added for emphasis). Col. 1, lines 19-22. Herdal's rectangular frame 11 is described as having "sufficient rigidity to retain its shape", see Herdal, claim 1, line 5. Herdal mentions relatively rigid, stiff or firm five times. Providing a soft billowing sidewall would seemingly go against Herdal's teachings because that would decrease the rigidity and decrease the cavity space needed for storing night wear in a non-mussed and non-crumpled condition. Herdal's seemingly provides a rigid frame for maximizing cavity space for storing night wear, whereas billowing decreases the storage space. Further, in sewing liners are used for finishing inner surfaces and imparting stiffness to a garment, the stiffness helping maintain the garment's shape. A vest liner, for example, follows the contours of the vest for finishing and for imparting stiffness. In Herdal, liner 13, 14 appear to merely finish the interior surface by following the contours of frame 11. Thus, Herdal does not teach or suggest a billowing cavity sidewall. For all of the above reasons, Applicants respectfully request allowance of claim 23.

Claim 24: Claim 24 depends from claim 23 and further sets forth an item 128 in combination with cushion article 100 of claim 23, and further requires a first surface *and* first door 104 have indicia which together with item 128 illustrate a theme. Spec. pg. 76, par. 76, lines 2-4. Nowhere in the prior art do we find a cushion article with a door and cavity as claimed where the cavity sidewall billows inward for snugly holding an item. Additionally, by sharing elements of one theme a person can readily identify which item goes with which pillow, similar to a puzzle. By providing indicia on the first surface which includes the front surface, cavity sidewall surface and cavity floor surface, the theme can be carried to the inside of the cavity when the door is opened.



Herdal teaches a bolster for holding night wear. Redman teaches a tooth shaped pillow having a pocket for holding baby teeth in exchange for money or other valuables. Redman teaches indicia on pocket 20 but does not teach indicia on the tooth surface. Therefore, even if Herdal could be modified by Redman without destroying the teachings of Herdal, there lacks indicia on a first surface as set forth in claim 24. In addition, Herdal does not teach a billowing cavity sidewall for snugly holding an item in the bolster. Herdal appears to be maximizing the cavity space by providing a relatively stiff framework 11 and thus shrinking the cavity by soft billowing sidewalls seemingly goes against Herdal's teachings. The liners 13, 14 merely following the contours of frame 11 rather than billowing. Herdal also teaches away from snugly holding an item because Herdal teaches "...a stiff or relatively firm framework surrounding the cavity so that night wear contained therein will not become mussed or crumpled when retrieved." Col. 1, lines 19-22. For all of the above reasons, Applicants respectfully request allowance of claim 24.

Claim 25, 27, 29-31: Independent claim 25 sets forth a theme pillow assembly having a cavity and an item removeably stationed in the cavity, and where a third layer being a door opens fully revealing a cavity opening. Claim 25 also sets forth the third layer is attached to a first layer of the theme pillow *in between* a cavity opening and an outer perimeter of the first layer. Claim 25 further sets forth a theme, that is, the first layer or third layer have indicia which together with the item provide a cohesive theme.

Claim 25 as shown in Figures 1A-G comprises a theme pillow assembly 100 for playing peek-a-boo hide and seek with at least one item 128. Theme pillow assembly 100 comprises a cushioning member having a first layer 140, second layer 148, cushioning medium 152 therebetween and a cavity 120 having an opening 126. Cavity 120 has a cavity sidewall perimeter layer 144, and a cavity floor layer 146 similarly sized to cavity opening 126. Spec. pg. 18, par. 78, lines 1-6. Theme pillow assembly 100 further comprises a third layer being door 104 connected to the first surface at seam hinge line 106; door 104 being bendable and openable to an open position for fully revealing said first cavity opening (Fig. 1C) and closeable to a closed position over said first cavity for concealing at least a portion of said first cavity (Fig. 1A). Cavity opening 126 generally maintains its predetermined dimension in use.



Claim 25 further comprises indicia on at least one of first layer 140 and third layer 104 which together with item 128 visually provides a cohesive theme. See Figure 1C where front surface 102 has forest indicia which together with bear 128 visually illustrated a bear in the woods theme. For theme examples, see the present specification pg. 17, par. 76, pg. 25, par. 91, lines 2-5, pg. 26, par. 92, pg. 27, par. 94, lines 1-3, and pg. 30, par. 98, lines 1-4, and Appendix F. By providing a cohesive theme a person can readily identify which items go with which pillows.

Placement of the present door 104 centrally located on pillow 100 provides visual balance and provides balance on a child's lap, that is, the pillow is not likely to tumble off when door 104 is opened and closed in peek-a-boo play. A structure like notebook or a suitcase when opened becomes tipsy on a lap. Notice that Herdal's bolster appears to be shaped much like a suitcase. Further, the present door looks like regular door that very young children have some familiarity, which may be the reason the present door is easy for children to comprehend and use. Applicants acknowledge that the present pillow "can improve a child's motor skills and stimulate imagination while providing quiet time entertainment with a soft, non-breakable article." Spec. pg. 23, par. 89.

Now turning to the references, Herdal does not teach a door that opens fully revealing the cavity opening where the Examiner alleges the cavity opening is at the outer perimeter of liner 13, 14. A door is shown as one-half of cover 26, cover 26 being connected to pad 27 and liner 25. Col. 1, lines 69-72. When one-half of cover 26 is opened only one-half of the cavity opening, at outer perimeter of liner 13, 14 or at the intersection of liner portions 13, 14, is revealed the other half remains hidden under cover 26. Claim 25 requires that the door opens to fully reveal the cavity opening.

Herdal also does not specifically discuss indicia, or indicia which together with a stored item provides a cohesive theme. Herdal teaches storing night wear and Herdal mentions cover 26 may be "ornamental" but does not link the two into a theme. Col. 1, line 69. Herdal does not teach a theme cohesively binding the bolster to the item stored therein.

Redman teaches a tooth shaped pillow having a pocket for holding baby teeth in exchange for money or other valuables. Col. 1, lines 55-56. The Examiner's rejection suggests Redman shows a frontally located 'door'. We do not agree that Redman shows a door of any

sort. Redman teaches a pocket 20. Somehow by applying this frontally located pocket to Herdal, the Examiner finds the present door and obvious matter of design. This line of reasoning appears to be recreating Applicants' inventive pillow by impermissible hindsight. The pocket of Redman is not analogous to an openable and closeable door over a cavity. A pocket is not openable along a hinge line. Moreover, a pocket space is dependent upon a pocket layer, such that, if a pocket open like a door the storage space would disappear. A pocket is merely a fabric layer on a solid pillow and the pillow itself has no recessed cavity. Therefore, there is nothing to suggest looking from Herdal to Redman for a cohesive theme which involves storing a theme item in a cavity absent Applicants' own teachings. In the present invention, cavity 120 does not disappear upon opening door 104, and the item can remain in the cavity even when door 104 is open.

Furthermore, modifying Herdal by Redman does not cure the lack of a door that opens to fully reveal the cavity opening and the lack of a door connected in between the cavity opening and outer perimeter as set forth in claim 25. Applicants do not believe that it would be an obvious matter of design for Herdal's cover 26 to fully open because Herdal is concerned with maintaining "...a stiff or relatively firm framework surrounding the cavity so that night wear contained therein will not become mussed or crumpled." Col. 1, lines 19-22. Cover 26 is sewn to peripheral cover 19 on three sides effectively forming a box-envelope holding one-half of rectangular frame 11. If cover 26 was opened to fully reveal the cavity opening we would lose sewing on two of the three sides of the box-envelope seemingly making the device of Herdal less rigid which goes against Herdal's teachings. Further, there is nothing in Herdal or Redman to suggest connecting door 26 in between the cavity opening and the outer perimeter, such a connection would seemingly weaken the box-envelope structure and expose a portion of liner 14.

In the after final interview it was mentioned by the Examiner that the size and location of the present door is a matter of aesthetics. Creating something simple, comprehensible and easy to use is just as much of an invention as making something complicated. In use, the present door simply opens then lies back down over the cavity on the front surface of the pillow. In Herdal, the structure of cover 26 is complicated and more complicated in use because upon closing, flange 34 and ruffle 37 can get trapped under cover 26, or corners of flange 34, ruffle 37 and cover 26 may need to be stretched over the corners of rectangular frame 11, and the loops 35

and buttons 36 on the sides of the bolster may be harder to reach and navigate, each problem area making the bolster difficult for very young children to use. Further, Herdal teaches concealing the cavity opening and flange 34 of cover 26 with ruffles or fringes 37. Col. 2, lines 5-6 and 11-14. Herdal disguises cover 26, such that, it would seemingly go against Herdal's teaching to provide a door that looks like a door, and is frontally located on a pillow. For all of the above reasons, it is respectfully requested that claim 25 be allowed.

Claim 28: Claim 28 depends from claim 25 and further sets forth that the third layer door has a larger circumference than the cavity opening circumference. Herdal's door is one-half of cover 26 and does not appear larger in circumference than the cavity opening. As discussed above it would not have been obvious to make the door of Herdal larger since this would seemingly compromise the rigidity of the bolster.

Claim 34: Claim 34 sets forth a theme pillow assembly 100 for playing peek-a-boo hide and seek with at least one item 128, comprising a cushioning member including a front surface 102 and a back surface 136 connected along an outer perimeter 110 and cushioning medium 152 in between. The front and back surfaces are surfaces being layers of fabric material which form a shell housing the cushioning medium. Spec. pg. 18, par. 78. The theme pillow assembly has a cavity recessed from the front surface 102 into the cushioning member, and the cavity has a cavity opening and a cavity sidewall perimeter surface and a cavity floor surface. The cavity sidewall perimeter surface is longer than a depth of the cushioning member at an outer perimeter. See for example Fig. 1G where the length along billowing sidewall 122 from front surface 102 to floor surface 124 longer than the depth of the pillow at an outer perimeter 110. Similarly in Fig. 5E, the cavity sidewall billows into cavity 520a due to its length being greater than the depth of the pillow at outer perimeter sidewall 560. Spec. pg. 29, par. 97, lines 1-4; Figs. 5D, 5E-5F. The theme pillow assembly of claim 34 further comprises at least one item removeably situated in said first cavity for playing peek-a-boo hide and seek by opening and closing a door connected to the front surface. The theme pillow assembly further comprises a cohesive theme where at least one of the cushioning member and the door have indicia which together with the at least one

item stored in the pillow cavity visually illustrate a theme. By sharing elements of one theme a person can readily identify which items go with which pillows, similar to a puzzle.

Now turning to the references, Herdal does not teach or suggest making the cavity sidewall perimeter surface longer than a depth of bolster. Herdal shows liner portion 13 being shorter than a depth of the bolster at an outer perimeter. The outer perimeter of the bolster extending from slightly below leader line 20 in Figure 2 to just below leader line 33, that is, to the extremities of the seams.

In the Examiner's arguments, the Examiner states "...a first cavity sidewall perimeter surface defined by an inner lining 13 *extending across the top and bottom of cavity liners (14,15)...*" (italic added for emphasis). Extending the first cavity sidewall perimeter surface across the top of frame 11 to include liner portion 14 means the circumference of the cavity opening is at the outer periphery of the bolster. Most importantly, this also means there is no front surface as set forth in claim 34, line 7. In the rejection, the Examiner uses liner 13 for the front surface (Office Action, pg. 2, par. 3, line 2) but then uses liner 13 again for the first cavity sidewall perimeter surface which the Examiner says extends across the top of frame 11. Office Action, pg. 2, par. 4, lines 3-4. The Examiner further argues that since the cavity sidewall surface includes liner portion 14 across the top of frame 11 then the cavity sidewall surface is longer than a depth of the bolster at the outer perimeter. Office Action, pg. 2, par. 4, lines 5-6. While this line of reasoning may provide for a longer cavity sidewall surface, it omits a front surface as set forth in the claim, specification and figures.

Herdal also does not teach providing indicia on the bolster for visually indicating a cohesive theme in conjunction with an item removeably situated the cavity. Herdal teaches a bolster that is "...highly ornamental in appearance, useful, and sturdy and durable." Col. 1, lines 28-29. "A[a] bolster of this character which is ornamental in appearance and which may be placed on the bed as an ornament..." Col. 1, lines 13-15. Herdal also mentions that the bolster may be rectangular, round, multi-sided, or in any desired shape or configuration. Col. 2, lines 22-24. However, Herdal fails to cohesively link the bolster to the night wear item into a single theme.

Redman teaches a tooth shaped pillow having a pocket for holding baby teeth in exchange for money or other valuables. Col. 1, lines 55-56. The pocket of Redman however is

non-analogous to Herdal's door over a cavity since a cavity recessed into a pillow does not disappear when the door is opened. For reasons stated above and since Herdal in view of Redman does not teach the invention as claimed, neither reference teaching hiding a theme item in a pillow cavity underneath a door.

- (b) Claims 2 and 26 were finally rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Number 3,175,230 to Herdal in view of U.S. Patent Number 4,091,481 to Redman, further in view of U.S. Patent Number 5,778,468 to Saarela et al.

Claim 2: Claim 2 depends from claim 1 and further requires that the at least one item is a stuffed animal removeably yet snugly held in a pillow cavity having a billowing sidewall.

Herdal teaches placing night wear inside bolster 10. Redman teaches a baby tooth in exchange for money or other valuables in a pocket 20. Neither Herdal nor Redman teach a stuffed animal or fairly suggest snugly holding a stuff animal in a pillow cavity and hiding it underneath a door.

Saarela et al. teaches a stuffed angel in a pocket. Col 1, line 65-66; col. 3, lines 35-40. Applicants do not believe a stuffed angel 18 is a stuffed animal. Moreover, modifying Herdal in view Redman further in view of Saarela et al. does not get us to the present invention without impermissible hindsight in attempt to recreate Applicants' own invention. Even if Redman's tooth theme could somehow be applied to Herdal the combination does not suggest going to yet another reference such as Saarela et al. to get a stuffed angel. Like Redman, Saarela et al. teaches a pocket, not a cavity recessed into a pillow underneath a door. It appears from Figure 1 in Saarela et al. that angel 18 is kept partially in view to help meet Saarela et al. objectives of effectuating feelings of comfort, companionship and security, thus would go against hiding an angel inside a hidden cavity. Col. 1, lines 17-20. Moreover, these pocket teachings do not get us to snugly holding a stuffed animal within a pillow cavity. Thus, Herdal in view of Redman and further in view of Saarela et al. do not teach or fairly suggest a pillow with a cavity having a billowing sidewall for snugly holding a stuffed animal, the pillow having a door over the cavity for hiding the stuffed animal.



Claim 26: Claim 26 depends from claim 25 and further requires a stuffed toy removeably stationed in the pillow cavity. Herdal teaches placing night wear inside bolster 10. Redman teaches a baby tooth in exchange for money or other valuables in pocket 20. Neither Herdal nor Redman teach or suggest putting a stuff toy in a pillow cavity and hiding it underneath a door.

Saarela et al. is referenced for teaching a stuffed toy in a pocket. Saarela et al. shows an angelic stuffed toy 18 partially confined crescent moon shaped pocket 15 and books and small toys in an elasticized rear pocket 3. See Saarela et al., Figures 1 and 3, col. 1, lines 60-61, 65-66, col. 3, lines 35-40. One of the objectives of Saarela et al. is to effectuate feelings of comfort, companionship and security, which seems to suggest keeping angel 18 at least partially exposed to view as shown. Col. 1, lines 17-20.

Modifying Herdal in view Redman and further in view of Saarela et al. does not get us to the present invention without impermissible hindsight in attempt to recreate Applicants' own invention. If the tooth theme of Redman could somehow be applied to Herdal's bolster, then the combination would still be lacking suggestion to obtain yet another reference, such as Saarela et al., to get a stuffed toy. Moreover like Redman, Saarela et al. teaches a pocket, not a cavity recessed into a pillow cover by a door. Thus, the combination does not suggest hiding a theme item in a cavity underneath a door. The pocket teachings of Redman and Saarela et al. simply do not get us to storing a theme stuffed toy in Herdal's bolster. Thus, Herdal in view of Redman further in view of Saarela et al. does not teach or suggest a theme pillow assembly with a door, a cavity, and a theme stuffed toy removeably stationed in the cavity as claimed.

(c) Claims 4 and 27 were finally rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Number 3,175,230 to Herdal in view of U.S. Patent Number 4,091,481 to Redman further in view of U.S. Patent Number 3,378,948 to Gervaise. No further arguments are provided for these claims since claims 4 and 27 fall with claims 1 and 25, respectively.

(d) Claim 21 is finally rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Number 3,175,230 to Herdal in view of U.S. Patent Number



4,091,481 to Redman, further in view of U.S. Patent Number 6,105,188 to Perez-Mesa et al.

Claim 21: Claim 21 depends from claim 1 and further requires a blanket and a container forming a theme pillow kit having a shared theme identifying each of the parts as belonging together. The rejection simply does not address the lack of indicia on the blanket or on the container therefore all the elements of the claim have not been met. The addition of Perez-Mesa et al. does not cure this deficiency; neither Perez-Mesa et al. nor Redman teach or suggest indicia on a blanket or a container further cohesively linking the blanket or container to the theme pillow assembly.

(10) *Secondary Factors*

In addition to the discussions above regarding non-obviousness, Appellants are having commercial success in their invention. Appellants have attended a number of gift shows where the public and distributors are extremely attracted to their inventive pillows. Distributors are particularly interested because the pillows are creative and unique from anything else they have seen on the market. Appellants are continuing to sell their pillows to high-end consumer stores and on-line ([www.purplecowcreations.com](http://www.purplecowcreations.com)). Several pages from their on-line store are reproduced in Appendix F. The present pillow is a unique and high quality pillow product. If for any reason the above claims are not in condition for allowance, Appellants continue to request in earnest guidance on how to obtain claims sufficiently covering Appellants' inventive subject matter particularly to their stock model as illustrated in Figures 1A-1G.

Furthermore, it appears that Applicants' invention is presently being copied by others. Applicants discovered a Boyd Collection, LTD pillow entitled "Blue Peek-a-Boo Pillow" which Applicants believe entered the marketplace approximately one and half to two years after Applicants first showed the present pillow to the public at a gift show. Appendix G shows a copy of a Boyd Collection, LTD webpage. Applicants also note that use of the term "Peek-a-boo Pillow" by Boyd Collection, LTD seems to infringe Appellants' federally registered trademark to "Peek-a-boo Pillows®".

(11) *Conclusion*

The rejections submitted in the Office Action of Nov. 28, 2006 should be reversed for at least the reasons recited above. Allowance of all claims 1-2 and 4-36, therefore, respectfully requested.

In accordance with 37 C.F.R. §41.31 Appellants submit this Appeal Brief to the Board of Patent Appeals and Interferences. Filed concurrently herewith are a Notice of Appeal and a formal request that the following fees from the previous Appeal (withdrawn) be applied here.


(a) \$250 for filing this Appeal Brief; and

(b) \$250 for the Notice of Appeal.

It is believed that no additional fees are due in connection with this Appeal Brief. Please charge the credit card submitted herewith should additional fees be required, and please contact the undersigned should additional information be required.

Respectfully submitted,

  
By: Julia S. Faircloth

  
By: Nellie T. Faircloth

Dated: 2-26-07

Julia S. Faircloth  
Nellie T. Faircloth  
11025 NE Hurley Lane  
Newberg, OR 97132  
Ph. 503-538-5192  
Cell. 503-550-7945

---

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

United States Patent and Trademark Office  
Mail Stop Notice of Appeal & Appeal Brief - Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

on this day of:

2-26-07

Print Name: Julia S. Faircloth

Signature: J Faircloth

**CLAIMS Appendix**

## CLAIMS

1. (previously presented) A theme pillow assembly for playing peek-a-boo hide and seek with at least one item, comprising:

a cushioning member, said cushioning member including a cushioning medium, a front surface and a back surface, said front surface and said back surface being connected along an outer perimeter of said cushioning member, said cushioning medium being between said front surface and said back surface;

a first cavity, said first cavity recessed from said front surface into said cushioning member, said first cavity having a first cavity opening of a predetermined dimension, a first cavity sidewall perimeter surface, and a first cavity floor surface of a similar predetermined dimension, said first cavity sidewall perimeter surface connected to said first cavity floor surface, and said first cavity sidewall perimeter surface encircled by said cushioning medium;

at least one item removeably situated in said first cavity;

a first door connected to said front surface, and said first door being bendable and openable to an open position for revealing all of said first cavity opening and closeable to a closed position over said first cavity for concealing at least a portion of said first cavity and said at least one item situated in said first cavity; and,

wherein said first cavity sidewall perimeter surface billows inward toward said first cavity to snugly hold said at least one item;

wherein said first cavity opening generally maintains said predetermined dimension in said open position and in said closed position, and said first cavity floor surface generally maintains said similar predetermined dimension in said open position and in said closed position;

wherein said first cavity sidewall perimeter surface billows in between said first cavity opening and said first cavity floor surface, said first cavity sidewall perimeter surface at least partially obscuring said first cavity floor surface when said at least one item is removeable situated in said first cavity and when said first cavity is empty; and,

wherein at least one of said cushioning member and said first door have indicia, said at least one item and said indicia together visually indicating an illustrated theme.

2. (previously presented) The theme pillow assembly of claim 1, wherein said at least one item includes a stuffed animal.

3. (canceled)

4. (original) The theme pillow assembly of claim 1, further comprising a sound device, and where said sound device emits a sound that further indicates said illustrated theme.

5. (original) The theme pillow assembly of claim 1, wherein said first cavity opening has a circumference and where said first door has a larger circumference than said first cavity opening circumference so as to overlay a portion of said front surface.

6. (original) The theme pillow assembly of claim 1, wherein said outer perimeter of said cushioning member has a generally rectangular outline, said outline encircling a cushioning member frontal area, said first cavity opening encircling an opening area, and where said opening area is at least 18% of the size of said cushioning member frontal area.



7. (original) The theme pillow assembly of claim 1, wherein said cushioning member includes a shell, said shell housing said cushioning medium, and said shell comprising quilted fabric material.

8. (original) The theme pillow assembly of claim 1, wherein said first cavity floor surface is attached proximate to said back surface for preventing said first cavity sidewall perimeter surface and said first cavity floor surface from turning inside out.

9. (previously presented) The theme pillow assembly of claim 1, further including a securing means for securing said first door in said closed position, and wherein said securing means and said first door are connected to said front surface, said first door opening by bending and said first door generally conforming to said front surface in said closed position, said front surface being convexly contoured.

10. (original) The theme pillow assembly of claim 1, further comprising a second door connected to said cushioning member.

11. (original) The theme pillow assembly of claim 10, wherein said first door and said second door conceal said first cavity when said first door and second door are in closed positions.

12. (original) The theme pillow assembly of claim 10, further comprising a third door, said third door underlying said first door when said first door is in said closed position.

13. (original) The theme pillow assembly of claim 1, further comprising an attached structure bridging at least a portion of said first cavity.

14. (original) The theme pillow assembly of claim 1, wherein said outer perimeter of said cushioning member has an outline that is shaped to further visually indicate said illustrated theme.

15. (previously presented) The theme pillow assembly of claim 1, wherein said cushioning member includes an outer perimeter surface, said outer perimeter surface connected to an outer perimeter of said front surface and connected to said back surface, said outer perimeter surface providing depth to said cushioning member.

16. (original) The theme pillow assembly of claim 15, further comprising a second cavity, said second cavity having a second cavity perimeter sidewall surface which generally encircles a three dimensional void of said second cavity, said second cavity generally encircled by said cushioning medium.

17. (original) The theme pillow assembly of claim 16, wherein said second cavity is in said outer perimeter surface and extending in an inward direction between said front surface and said back surface.

18. (original) The theme pillow assembly of claim 16, further comprising a second door, said second door having a closed position for concealing said second cavity and an open position for revealing said second cavity.

19. (original) The theme pillow assembly of claim 1, further comprising a tunnel, said tunnel having a tunnel opening in said first cavity sidewall perimeter surface, and said tunnel being a passageway located in between said front surface and said back surface.

20. (original) The theme pillow assembly of claim 1, further comprising a cover door and an opening in said first door, said cover door covering said opening in said first door in a closed position and exposing said opening in said first door in an open position, said cover door pivotally connected to said first door.

21. (original) A theme pillow kit comprising the theme pillow assembly of claim 1, a blanket, and a container, said container sized to hold said theme pillow assembly and said blanket, at least one of said blanket and said container having indicia which together with said cushioning member and said item visually indicates said illustrated theme.

22. (original) The theme pillow kit of claim 21, wherein said container is a carrying bag and includes a transparent portion and trim portion, said trim portion having indicia that coordinates with said indicia on said at least one of said cushioning member and said first door.

23. (previously presented) A cushion article for removeably receiving an item, comprising:

a first surface having an outer perimeter;

a second surface connected to said first surface at said outer perimeter;

a cushioning medium, said cushioning medium located between said first surface and said second surface;

a first cavity, said first cavity being a three dimensional void encircled by said cushioning medium and being generally encircled by said first surface, said first surface including a front surface, a first cavity sidewall perimeter surface and a first cavity floor surface, said first cavity sidewall perimeter surface and said first cavity floor surface generally defining said three dimensional void, said first cavity sidewall perimeter surface billowing toward said three dimensional void, at least when said void is empty, for snugly holding yet removeably receiving the item, said first cavity sidewall perimeter surface longer than a depth of said cushion article at said outer perimeter where said first cavity sidewall perimeter surface is measured along said billowing from said first cavity floor surface to said front surface, a first cavity opening to said first cavity being encircled by said front surface; and,

a first door, said first door connected to said first surface at a location in between said outer perimeter of said cushioning member and said first cavity opening and openable to an open position and closeable to a closed position, said first door overlaying said first cavity in said closed position, and said first door having a circumference greater than a circumference of said first cavity opening yet smaller than a circumference of said outer perimeter.

24. (original) The cushion article of claim 23, in combination with a removeable item, and where at least a portion of said first surface and said first door have indicia which together with said item visually illustrate a theme.

25. (previously presented) A theme pillow assembly for concealing and revealing an item comprising:

- a first layer of material;

- a second layer of material connected to said first layer of material;

- cushioning medium between said first layer and said second layer;

- a cavity having an opening, said first layer of material including a front layer, a cavity sidewall perimeter layer and a cavity floor layer, said cavity sidewall perimeter layer being encircled by said cushioning medium, said cavity opening and said cavity floor layer similarly sized and similarly shaped, said cavity opening and said cavity floor layer generally maintaining said size and shape;

- an item removeably stationed in said cavity;

- a third layer of material attached to said first layer of material, said third layer of material being a door covering at least a portion of said cavity opening, said third layer of material attached to pivotally open to an open position fully revealing said cavity opening and pivotally close to a closed position, said third layer attached in between said opening of said cavity and an outer perimeter of said first layer of material; and,

- wherein at least one of said first layer of material and said third layer of material bear indicia which together with said item indicate a theme.



26. (previously presented) The theme pillow assembly of claim 25, wherein said item includes a stuffed toy.

27. (previously presented) The theme pillow assembly of claim 25, further comprising a sound device.

28. (previously presented) The theme pillow assembly of claim 25, wherein said cavity opening has a circumference and where said third layer has a larger circumference than said cavity

• opening circumference so as to overlay a portion of said first layer of material.

29. (previously presented) The theme pillow assembly of claim 25, wherein said cavity floor layer is attached to said second layer for preventing said cavity sidewall perimeter layer and said cavity floor layer from turning inside out.

30. (previously presented) The theme pillow assembly of claim 25, wherein an outer perimeter of said theme pillow assembly has an outline that is shaped to further indicate said theme.

31. (previously presented) The theme pillow assembly of claim 25, further comprising a outer perimeter layer of material, said outer perimeter layer of material connected to an outer perimeter of said first layer of material and an outer perimeter of said second layer of material, said outer perimeter layer of material providing depth to said theme pillow assembly.

32. (previously presented) The theme pillow assembly of claim 31, further comprising a second cavity, said second cavity having a second cavity sidewall perimeter surface which generally encircles a three dimensional void of said second cavity, said second cavity generally encircled by said cushioning medium.

33. (previously presented) The theme pillow assembly of claim 25, further comprising a tunnel, said tunnel having a tunnel opening in said cavity sidewall perimeter layer, and said tunnel being a passageway located in between said first layer and said second layer.

34. (previously presented) A theme pillow assembly for playing peek-a-boo hide and seek with at least one item, comprising:

- a cushioning member, said cushioning member including a cushioning medium, a front surface and a back surface, said front surface and said back surface being connected along an outer perimeter of said cushioning member, said cushioning medium being between said front surface and said back surface;

- a first cavity, said first cavity recessed from said front surface into said cushioning member, said first cavity having a first cavity opening, a first cavity sidewall perimeter surface and a first cavity floor surface, said first cavity sidewall perimeter surface connected to said first cavity floor surface, said first cavity side wall perimeter surface longer than a depth of said cushioning member at said outer perimeter of said cushioning member where said first cavity sidewall perimeter surface is measured from said first cavity floor surface to said front surface along said first cavity sidewall perimeter surface, and said first cavity sidewall perimeter surface encircled by said cushioning medium;

at least one item removeably situated in said first cavity;

a first door connected to said front surface, and said first door openable to an open position for revealing at least a portion of said first cavity and closeable to a closed position over said first cavity for concealing said at least a portion of said first cavity and said at least one item situated in said first cavity;

wherein said cushioning member includes a shell, said shell housing said cushioning medium, and said shell comprising layers of fabric material, said first cavity floor surface on an exterior side of a first cavity floor layer of fabric material, said back surface on an exterior side of a back layer of fabric material, said first cavity floor layer having an interior side and said back layer having an interior side, said first cavity floor layer interior side and said back layer interior side connected without said cushioning medium intervening; and,

wherein at least one of said cushioning member and said first door have indicia, said at least one item and said indicia together visually indicating an illustrated theme.

35. (previously presented) A theme pillow assembly for playing peek-a-boo hide and seek with at least one item, comprising:

a cushioning member, said cushioning member including a cushioning medium, a front surface and a back surface, said front surface and said back surface being connected along an outer perimeter of said cushioning member, said cushioning medium being between said front surface and said back surface;

a first cavity, said first cavity recessed from said front surface into said cushioning member, said first cavity having a first cavity opening, a first cavity sidewall perimeter surface and a first cavity floor surface, said first cavity sidewall perimeter surface connected to said first

cavity floor surface, and said first cavity sidewall perimeter surface encircled by said cushioning medium;

at least one item removeably situated in said first cavity;

a first door connected to said front surface, and said first door openable to an open position for revealing at least a portion of said first cavity and closeable to a closed position over said first cavity for concealing said at least a portion of said first cavity and said at least one item situated in said first cavity;

further comprising an attached structure bridging at least a portion of said first cavity; and,

wherein at least one of said cushioning member and said first door have indicia, said at least one item and said indicia together visually indicating an illustrated theme.

36. (previously presented) A theme pillow assembly for playing peek-a-boo hide and seek with at least one item, comprising:

a cushioning member, said cushioning member including a cushioning medium, a front surface and a back surface, said front surface and said back surface being connected along an outer perimeter of said cushioning member, said cushioning medium being between said front surface and said back surface;

a first cavity, said first cavity recessed from said front surface into said cushioning member, said first cavity having a first cavity opening, a first cavity sidewall perimeter surface and a first cavity floor surface, said first cavity sidewall perimeter surface connected to said first cavity floor surface, and said first cavity sidewall perimeter surface encircled by said cushioning medium;

at least one item removeably situated in said first cavity;

a first door connected to said front surface, and said first door openable to an open position for revealing at least a portion of said first cavity and closeable to a closed position over said first cavity for concealing said at least a portion of said first cavity and said at least one item situated in said first cavity;

a cover door and an opening in said first door, said cover door covering said opening in said first door in a closed position and exposing said opening in said first door in an open position, said cover door pivotally connected to said first door; and,

wherein at least one of said cushioning member and said first door have indicia, said at least one item and said indicia together visually indicating an illustrated theme.

**Appendix A**  
**U.S. Patent Number 3,175,230 to Herdal.**

Reference entered into the record by the Examiner in the non-final Office Action mailed  
June 2, 2006.



**Appendix B**  
**U.S. Patent Number 4,091,481 to Redman.**

This reference was entered into the record originally by Appellants in the Information Disclosure Statement PTO-1449 filed with the Application on Sept. 12, 2003.

**Appendix C**  
**U.S. Patent Number 5,778,468 to Saarela et al.**

This reference was entered into the record originally by Appellants in the Information Disclosure Statement PTO-1449 filed with the Application on Sept. 12, 2003.

**Appendix D**  
**U.S. Patent Number 3,378,948 to Gervaise et al.**

Reference entered into the record by the Examiner in the non-final Office Action mailed December 9, 2005.

**Appendix E**  
**U.S. Patent Number 6,105,188 to Perez-Mesa et al.**

Reference entered into the record by the Examiner in the non-final Office Action mailed December 9, 2005.

## **Appendix F**

### **Secondary Consideration - Commercial Success**

Attached is several pages reproduced from on February 17, 2007:

<http://www.purplecowcreations.com>



Copyright, 2004, Purple Cow  
Creations™, LLC

## *Purple Cow Creations™, LLC*

### *Farm and Pond Peeks™*



Cowhide 13"x13", 100 % quilted cotton fabric. You have to look closely to see the cow, when placed in the pillow it blends right in with the fabric. Retail Price \$44.90

Item #11313COW01

**Add to Cart**

[Home](#)

[Events Calendar](#)

[About Us](#)

[Doggie Peeks™](#)

[Farm Peeks™](#)

[Boys Favorite Peeks™](#)

[Girls Favorite Peeks™](#)

[Jungle Peeks™](#)

[Cool Rider Peeks™](#)

[Cat Peeks™](#)

[Other Themes Peeks™](#)

[Western Peeks™](#)

[Wildlife Peeks™](#)

[Wee Peeks™](#)

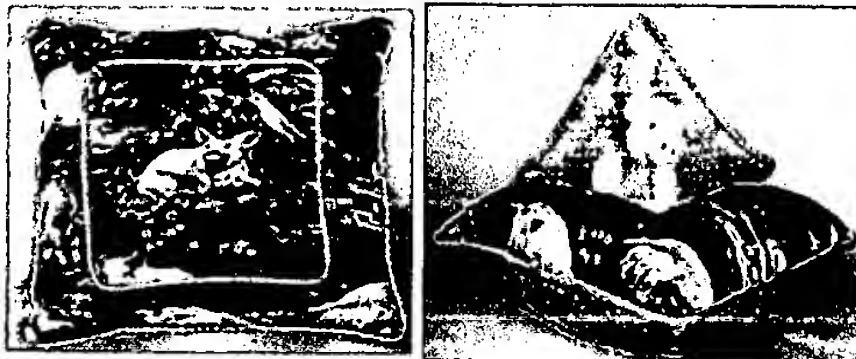
[New Peeks™](#)

[Corps of Discovery  
Peeks™](#)

[A Bear's Tale Book](#)

[Pillow Talk-Testimonials](#)

[Retail Stores](#)



Pigs and Apples with Pink Trim, 100% quilted cotton fabric. 11"x11" Retail Price \$44.90

Item #11313PIG02A

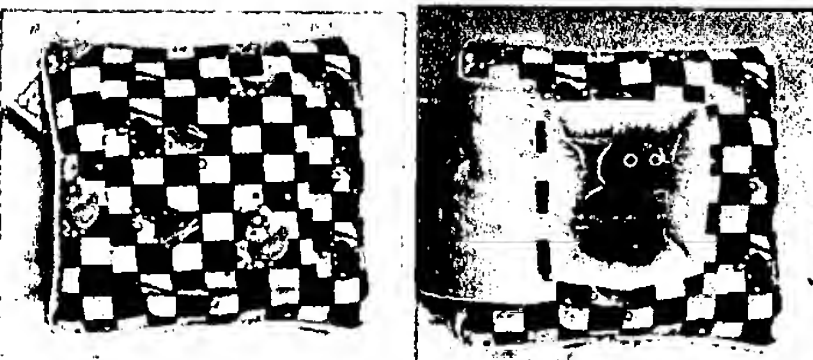
**Add to Cart**



Pigs and Apples with Cow Trim, 100% quilted cotton fabric. 11"x11" Retail Price \$44.90

Item #11313PIG02B

**Add to Cart**



Ducks and Bubbles, 100% quilted cotton fabric. 11"x11" Retail Price \$38.95

Item # 11111DUC01

**Add to Cart**



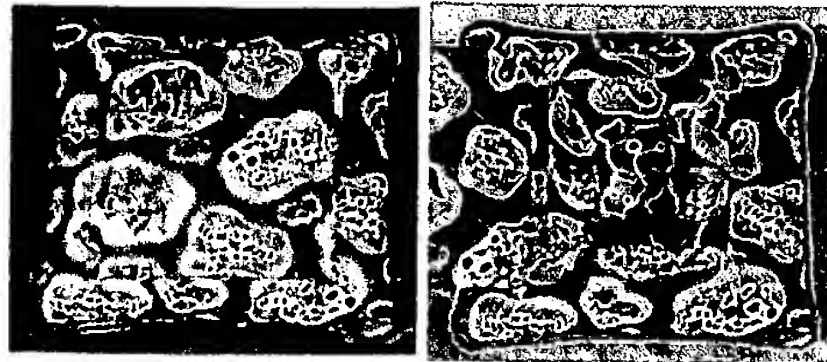
Silly Cows 11"x11" # Retail Price \$38.95

Item # 11111COW02

**Add to Cart**

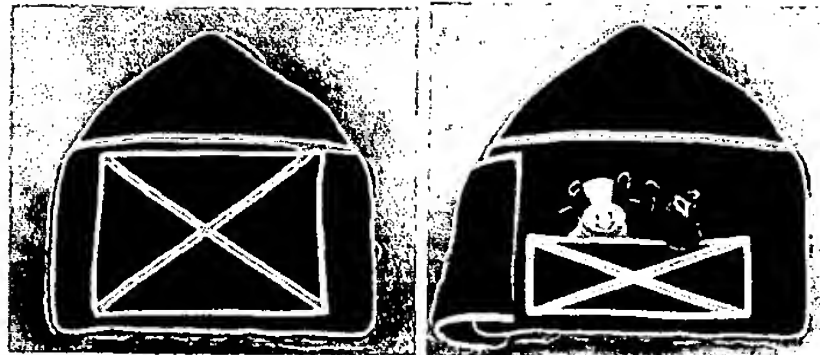
Farm Babies, animal type may vary. 11"x11" #





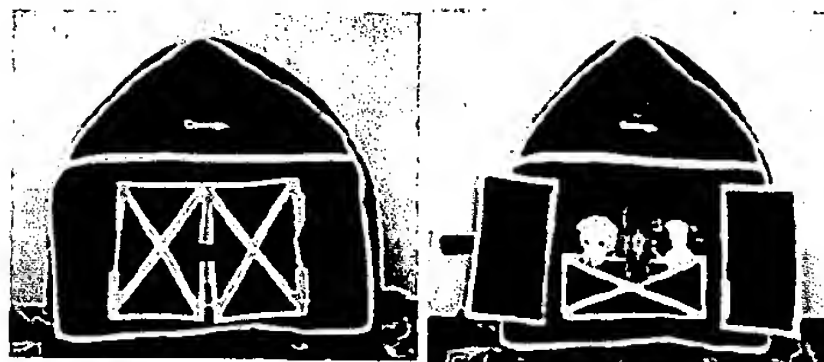
Retail Price \$38.95  
Item # 11111FAR01

[Add to Cart](#)



Small Red Barn Pillow with 2 plush stuffed animals included, horse, cow or pig. Size 13"by 12". The Barn is made of 100% cotton quilted fabric and trimmed in white. Retail Price \$65.95  
Item # 41212BRN01

[Add to Cart](#)



Large Red Barn Pillow with plush stuffed animals included, horse, cow and pig. A fabric-printed stuffed chicken in the loft is included with pillow. The Barn is made of 100% cotton quilted fabric and trimmed in white. Children as well as adult love this pillow. Size 16"by 13". Retail Price \$89.95  
Item # 41518BRN03

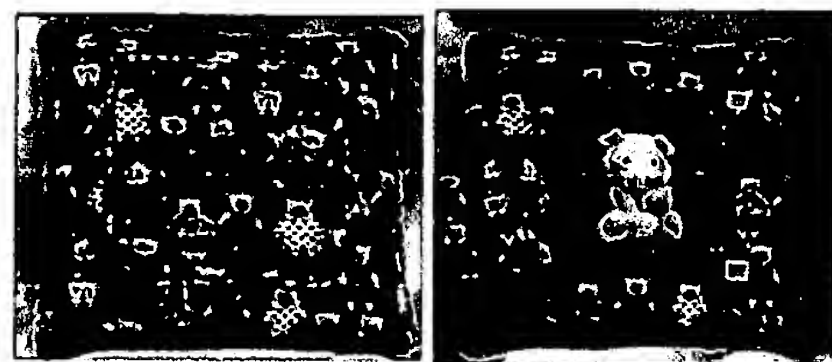
[Add to Cart](#)



Mallard Duck, Size 14"by 14". This cute stuffed duck is tucked inside a flannel mallard print fabric. Retail Price \$44.90  
Item #11414DUC01

[Add to Cart](#)

Pig Parade, 13"x13". This is a delightful fabric that shows pigs dressed up in various cute outfits. Retail Price \$45.95  
Item #11313PIG01



**Add to Cart**

 **View Cart**

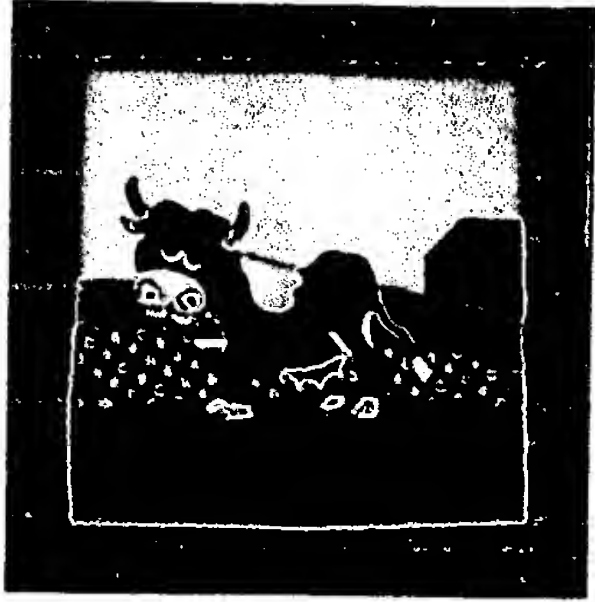
***Purple Cow Creations™, LLC***  
***Box 126***  
***Newberg, Oregon 97132***

***If you have difficulty ordering our Pillows, please use the Email link on this page.***

***or call 503-538-5192***

***Email: [julie@purplecowcreations.com](mailto:julie@purplecowcreations.com)***

***Patents Pending***  
***All Pillow Designs Copyrighted 2005, Purple Cow Creations™, LLC***



Copyright, 2004, Purple Cow  
Creations™, LLC

## ***Purple Cow Creations™, LLC***

### ***Other Themes Peeks™ Peek-A-Boo Pillows®***

*Most of these pillows have been designed because someone has requested a specific animal type/pillow. If you don't see your favorite animal type on any of our pages, ask about it. Maybe we already have plans to make just what you want.*

[Home](#)

[Events Calendar](#)  
[About Us](#)

[Doggie Peeks™](#)

[Farm Peeks™](#)

[Boys Favorite Peeks™](#)

[Girls Favorite Peeks™](#)

[Jungle Peeks™](#)

[Cool Rider Peeks™](#)

[Cat Peeks™](#)

[Other Themes Peeks™](#)

[Western Peeks™](#)

[Wildlife Peeks™](#)

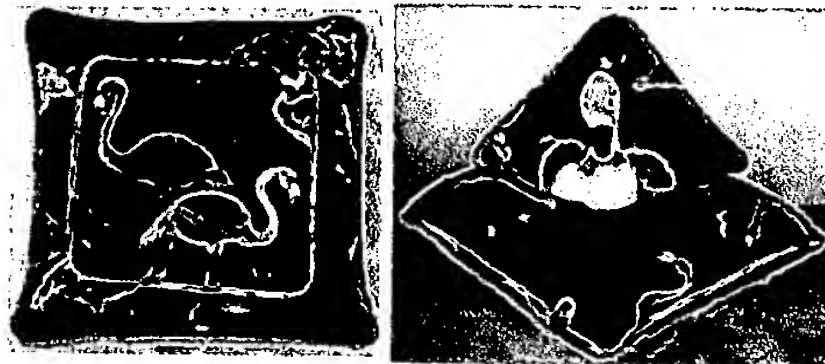
[Wee Peeks™](#)  
[New Peeks™](#)

[Corps of Discovery  
Peeks™](#)

[A Bear's Tale Book](#)

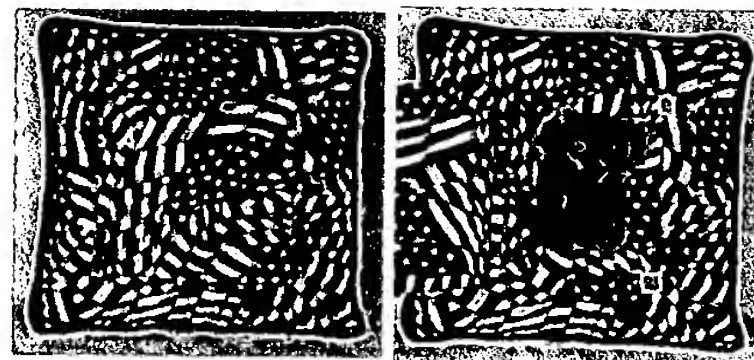
[Pillow Talk-Testimonials](#)

[Retail Stores](#)



Pink Flamingo, 14"x14", 100 % quilted cotton fabric. This pillow makes a nice comfy home for the pink flamingo. Retail Price \$44.90  
Item #11414BIR01

[\*\*Add to Cart\*\*](#)



American Flag 13"x13", Retail Price \$42.95  
Item #11313AMR01

[\*\*Add to Cart\*\*](#)

***Purple Cow Creations™, LLC***

***Box 126***

***Newberg, Oregon 97132***

***If you have difficulty ordering our Pillows, please use the Email link on this page.***

***or call 503-538-5192***

***Email: [julie@purplecowcreations.com](mailto:julie@purplecowcreations.com)***

Patents Pending  
All Pillow Designs Copyrighted 2005, Purple Cow Creations™, LLC



Copyright, 2004, Purple Cow Creations™, LLC

## *Purple Cow Creations™, LLC*

### *Cool Rider Peeks™ Peek-A-Boo Pillows®*

[Home](#)

[Events Calendar](#)  
[About Us](#)

[Doggie Peeks™](#)

[Farm Peeks™](#)

[Boys Favorite Peeks™](#)

[Girls Favorite Peeks™](#)

[Jungle Peeks™](#)

[Cool Rider Peeks™](#)

[Cat Peeks™](#)

[Other Themes Peeks™](#)

[Western Peeks™](#)

[Wildlife Peeks™](#)

[Wee Peeks™](#)

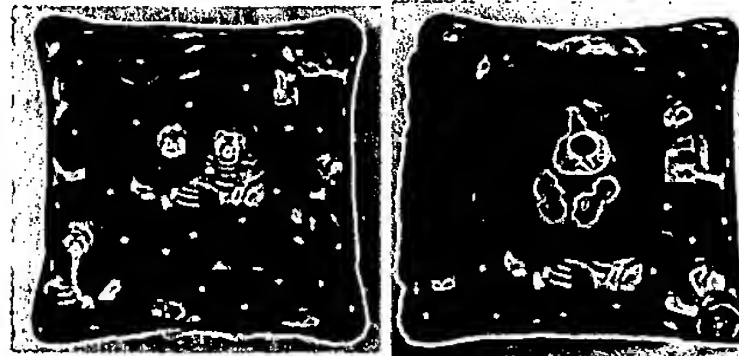
[New Peeks™](#)

[Corps of Discovery Peeks™](#)

[A Bear's Tale Book](#)

[Pillow Talk-Testimonials](#)

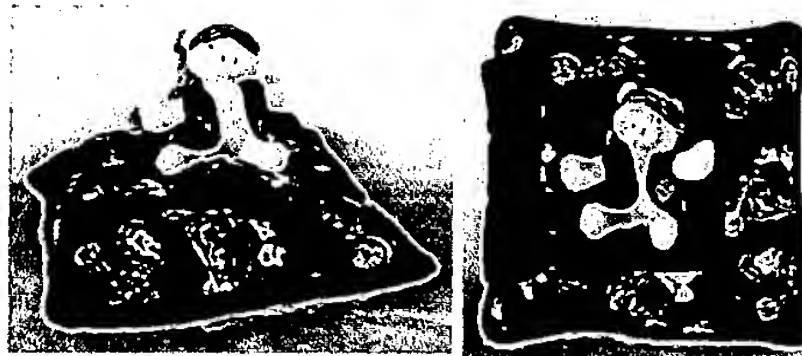
[Retail Stores](#)



Cute Dogs on Cycles, 13"x13",  
Price: \$44.90

Item Number: 11313CYL06

[Add to Cart](#)



Pigs on Cycles, 13"x13",  
Price: \$44.90

Item Number: 11313CYL04

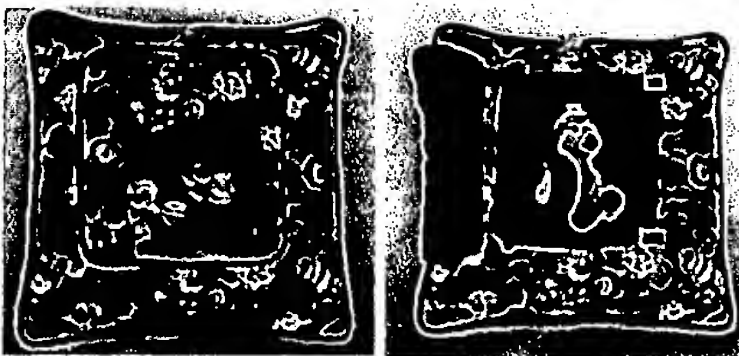
[Add to Cart](#)



Bears on Cycles, 13"x13",  
Price: \$44.90

Item Number: 11313CYL02

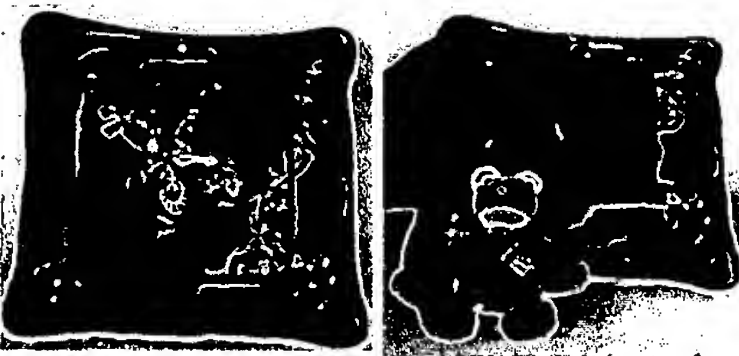
[Add to Cart](#)



Chicks on Cycles, 13"x13",  
Price: \$44.90

Item Number: 11313CYL07

[Add to Cart](#)

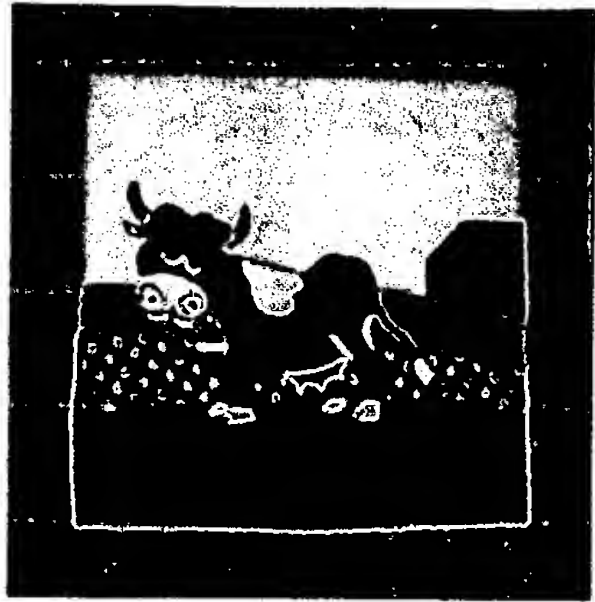


Frogs on Cycles, 13"x13",  
Price: \$44.90

Item Number: 11313CYL02

[Add to Cart](#)





Copyright, 2004, Purple Cow  
Creations™, LLC

## ***Purple Cow Creations™, LLC***

### ***Wildlife, Wild Animals Peek-A-Boo Pillows®***

[Home](#)

[Events Calendar](#)  
[About Us](#)

[Doggie Peeks™](#)

[Farm Peeks™](#)

[Boys Favorite Peeks™](#)

[Girls Favorite Peeks™](#)

[Jungle Peeks™](#)

[Cool Rider Peeks™](#)

[Cat Peeks™](#)

[Other Themes Peeks™](#)

[Western Peeks™](#)

[Wildlife Peeks™](#)

[Wee Peeks™](#)

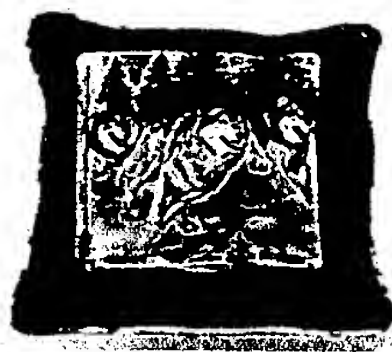
[New Peeks™](#)

[Corps of Discovery  
Peeks™](#)

[A Bear's Tale Book](#)

[Pillow Talk-Testimonials](#)

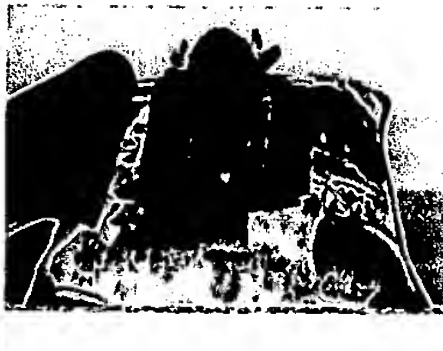
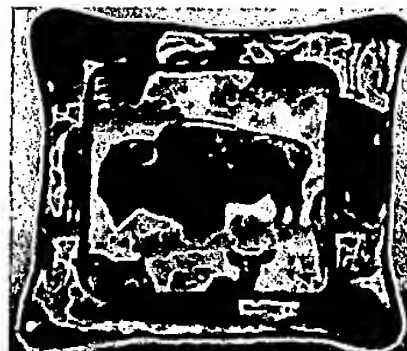
[Retail Stores](#)



**Item #11414WOL01**

Wovles In Winter Forest, 14"x14" \$48.90.

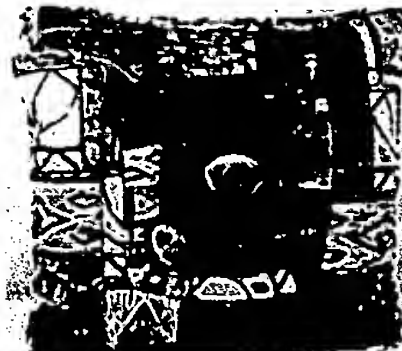
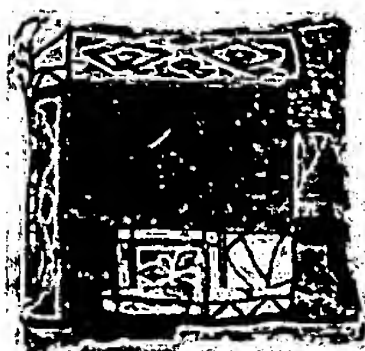
**Add to Cart**



**Item #11313BUF02**

Buffalo Rest, 13"x13" \$44.90.

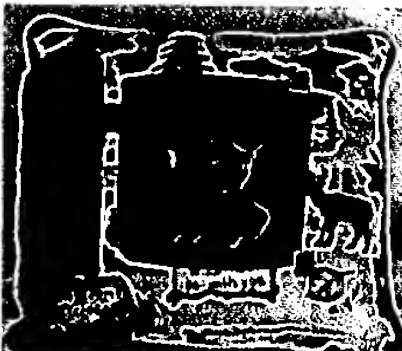
**Add to Cart**



**Item #11313BEA03**

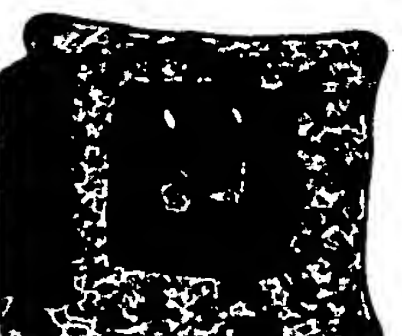
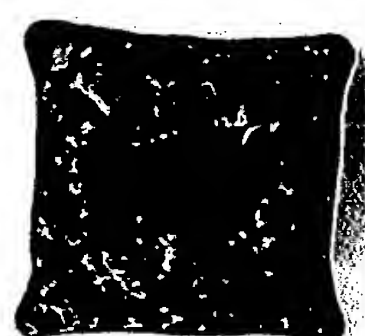
Bear Mountain 13"x13" The bears snapshots on this fabric look very realistic.  
Price \$44.90

**Add to Cart**



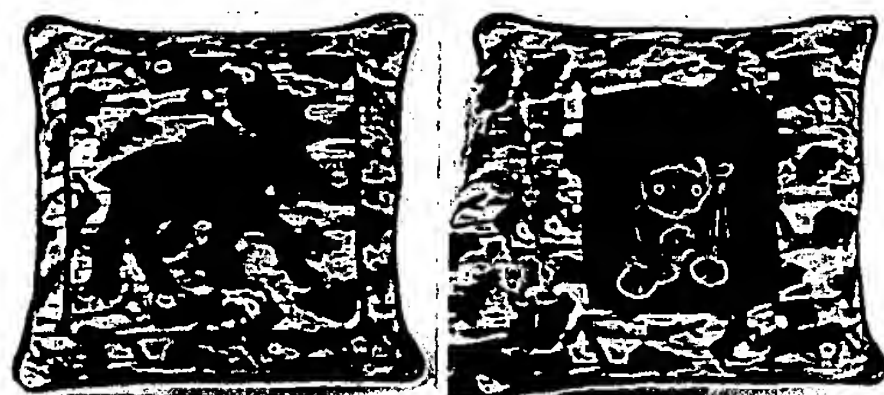
**Item #11313CAM01 Moose/Bear Creek with  
MOOSE included. Price \$44.90**

**Add to Cart**



**Item ##11313BUF01 Buffalo Roam, 13"x13". We received several request for a buffalo pillow, so here it is! This soft, flannel pillow has an stunning applique on the pillow door and a very cut 6' floppy buffalo tucked inside. Navy blue flannel is on the back side. Retail Price \$49.95**

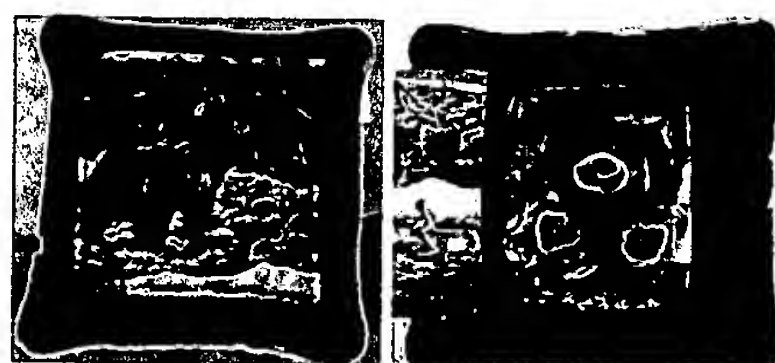
**Add to Cart**



Moose Sihouette. 13"x13" Our wildlife pillows continue to be good sellers. This moose flannel pillow has an applique on the door and black cotton on the back side.

**Item #11313MOO01**

Price: \$46.95



**Item #11414BEA01**

Bears Near Water, 14"x14". This is a beautiful pillow. It is an adult favorite.

Price \$44.90

**Add to Cart**



**Item #11414BEA04**

Polar Bear, 14"x14"

Price \$44.90

**Add to Cart**

 **View Cart**

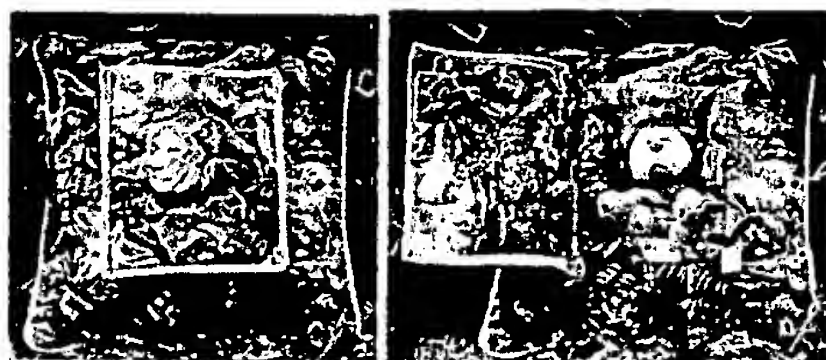




Copyright, 2004, Purple Cow  
Creations™, LLC

# Purple Cow Creations™, LLC

## Jungle Peeks™



Jungle-Lion, 13"x13" Sug. Retail \$44.90,  
Item# 11313JUN01

Add to Cart

[Home](#)

[Events Calendar](#)  
[About Us](#)

[Doggie Peeks™](#)

[Farm Peeks™](#)

[Boys Favorite Peeks™](#)

[Girls Favorite Peeks™](#)

[Jungle Peeks™](#)

[Cool Rider Peeks™](#)

[Cat Peeks™](#)

[Other Themes Peeks™](#)

[Western Peeks™](#)

[Wildlife Peeks™](#)

[Wee Peeks™](#)

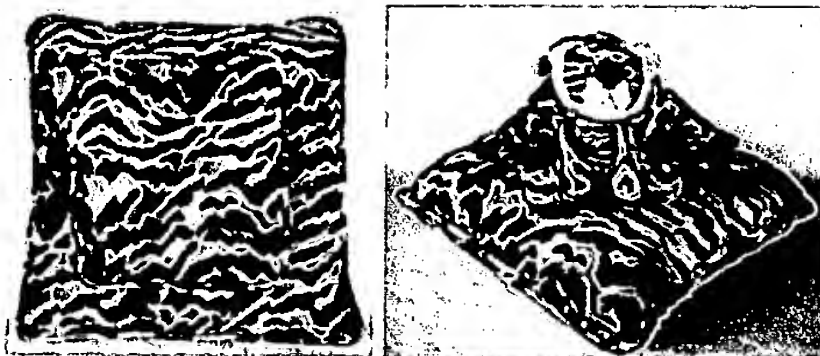
[New Peeks™](#)

[Corps of Discovery Peeks™](#)

[A Bear's Tale Book](#)

[Pillow Talk-Testimonials](#)

[Retail Stores](#)



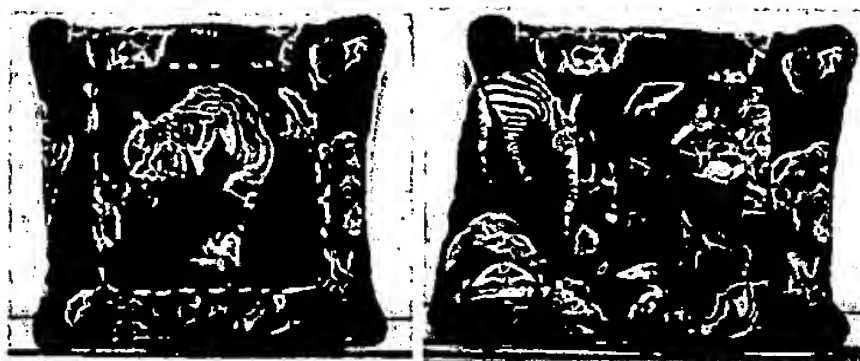
Tiger Stripes with Tiger, 13"x13" Suggested  
Retail \$44.90,  
Item# 11313JUN06

Add to Cart



Jungle Tiger with Tiger, 13"x13" Sug. Retail  
\$44.90,  
Item# 11313JUN04

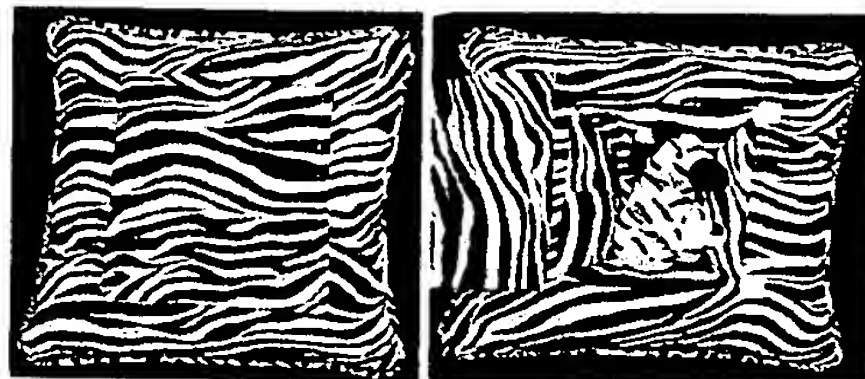
Add to Cart



Safari Tiger, with Tiger or Lion, 13"x13" Sug.  
Retail \$44.90,  
Item# 11313JUN05

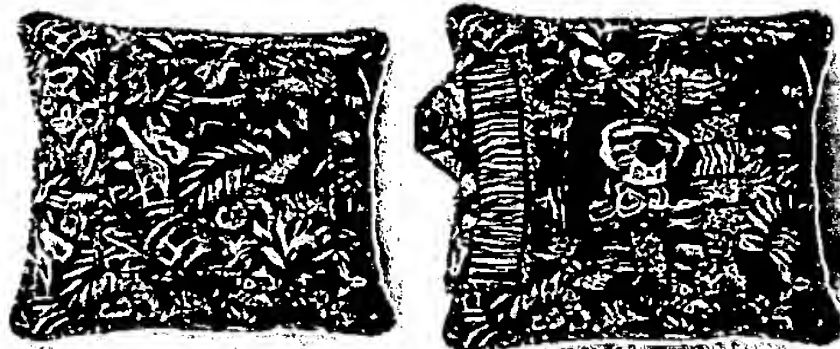
Add to Cart

Zebra hide with Zebra, Cotton, 13"x13" Sug.



Retail \$44.90,  
Item# 11313HZB01

[Add to Cart](#)



Jungle Pals, with Tiger, Giraffe, Lion or  
Elephant, 13"x13" Sug. Retail \$44.90,  
Item# 11313JUN07

[Add to Cart](#)

 [View Cart](#)

**Purple Cow Creations™, LLC**  
**Box 126**  
**Newberg, Oregon 97132**

**If you have difficulty ordering our Pillows, please use the Email link on this page.  
or call 503-538-5192**

**Email: [julie@purplecowcreations.com](mailto:julie@purplecowcreations.com)**

Patents Pending  
All Pillow Designs Copyrighted 2005, Purple Cow Creations™, LLC

## **Appendix G**

### **Secondary Consideration - Copying by others**

See [http://www.boydsstuff.com/itempage/item\\_queries.cfm?IN=810159](http://www.boydsstuff.com/itempage/item_queries.cfm?IN=810159)

A copy of the above webpage is attached. Note the following text from the webpage.

"Blue Peek-a-Boo Pillow"

"Season Introduced: SPRING 2005"

"Peek-a-boo pillow makes playtime with baby so much fun! Soft chenille design features three seersucker-lined and embroidered flaps. Lift each to reveal a miniature Boyds friend that rests inside a cozy seersucker insert. (pink-bear, duck, and bunny; blue-lamb, bear, and dog)."



## Boyds Home Baby



### Blue Peek-a-Boo Pillow

Vital Statistics

F.o.B. members,  
please login

to do list

- Bears, Friends, and More
- Plush
- Bearstones & Dollstones
- Say a lil' Sumptin' Greetings
- Boyds Gift Shoppe
- Exclusives
- ✕ Boyds Home
- Licensed Stuff
- Events
- Gifts
- F.o.B. Club
- Newz
- Givin' Back
- Boyds 101

Peek-a-boo pillow makes playtime with baby so much fun! Soft chenille design features three seersucker-lined and embroidered flaps. Lift each to reveal a miniature Boyds friend that rests inside a cozy seersucker insert. (pink-bear, duck, and bunny; blue-lamb, bear, and dog).

#### Vital Statistics

Item Number:	810159
Season Introduced:	SPRING 2005
Height:	9"
Width:	14"
Materials:	chenille and plush
Poseable:	No
Status:	Retired
Ltd. Edition:	No

#### Related Items

If you like Blue Peek-a-Boo Pillow, have a peek at this related Boyds Stuff:

[Blue Star Picture Frame](#)

[Blue Heart Picture Frame](#)

[Pink Peek-a-Boo Pillow](#)

## **Evidence Appendix**

None.

**Related Appeals and Related Proceedings**

None.